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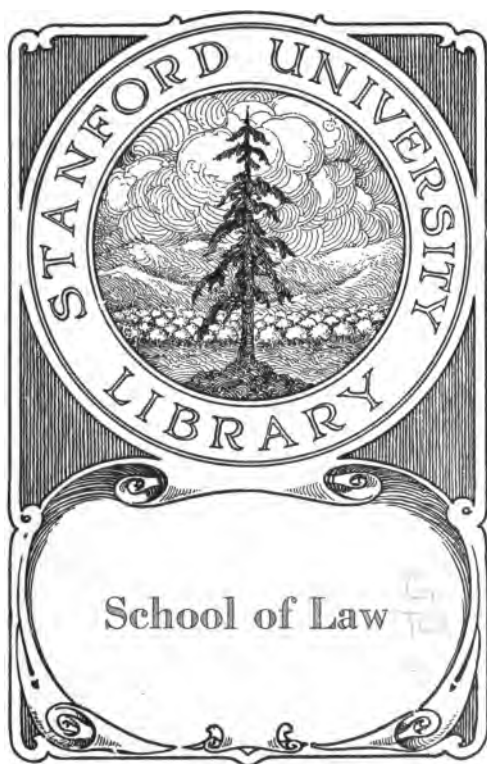
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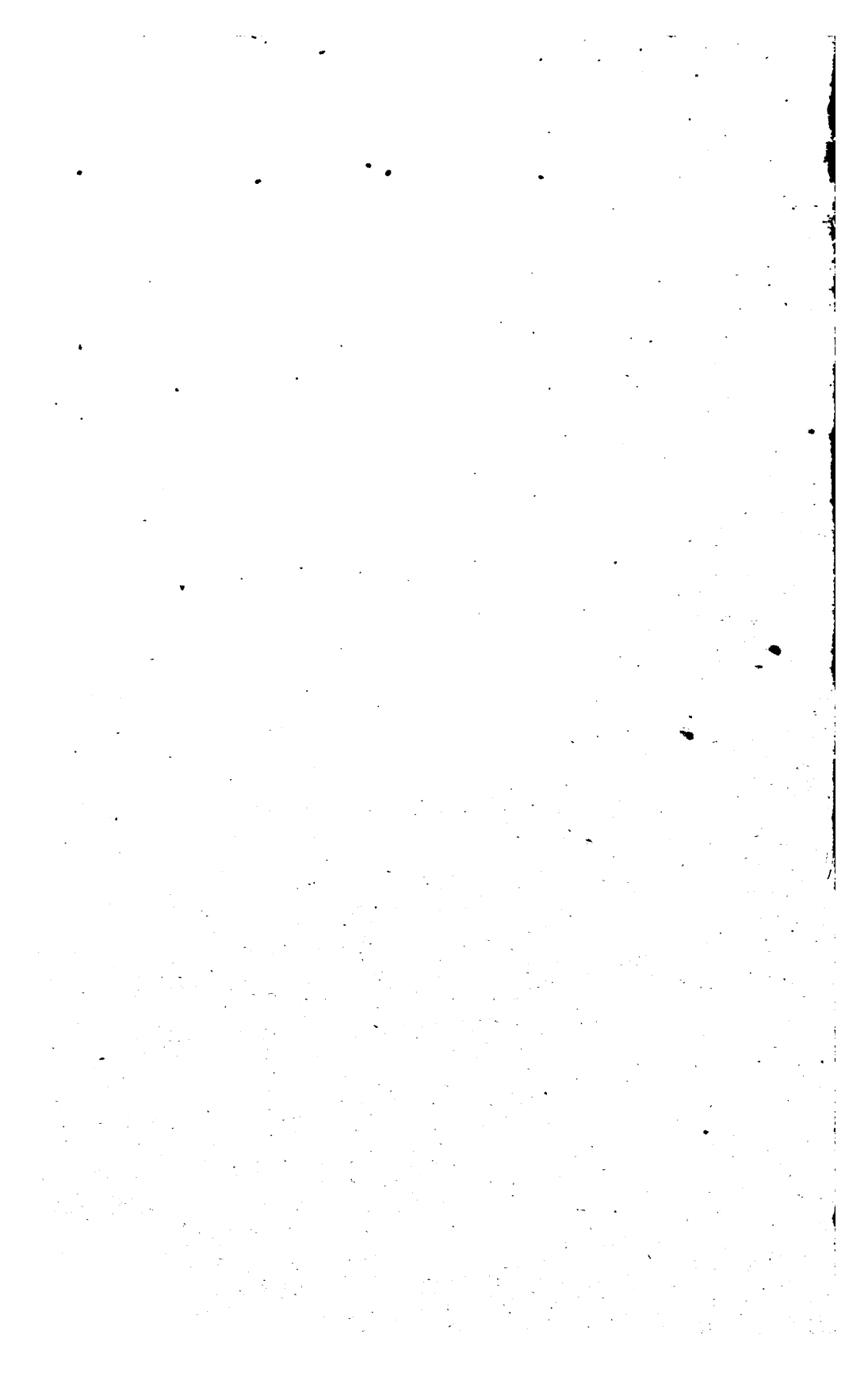
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ACTS
OF A
GENERAL NATURE,

PASSED AT THE FIRST SESSION

OF THE

Twenty-sixth General Assembly

OF THE

STATE OF OHIO,

BEGUN AND HELD IN THE TOWN OF COLUMBUS;

DECEMBER 3, 1827,

AND THE TWENTY-SIXTH YEAR OF SAID STATE.

VOL. XXVI.

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VRANIS GROBIA

GENERAL LAWS.

AN ACT to attach a part of the county of Allen to the county of Mercer,
for judicial and financial purposes.

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That the county of Allen be, and the same is hereby attached to the county of Mercer, for judicial and other purposes.

Sec. 2. That all suits or actions, whether of a civil or criminal nature, pending either in the supreme court or court of common pleas for the county of Shelby, the causes of which shall have originated in the county of Allen aforesaid, previous to the taking effect of this act, shall be prosecuted to final judgment and execution in the same manner as if this act had never been passed. Suits, &c. not affected by this act.

Sec. 3. That it shall be the duty of the county assessor, for Mercer county, to proceed to assess the real and personal property within the said county of Allen, which may be subject by law to taxation for state and county purposes, and make return thereof to the county auditor, between the periods pointed out by law for the assessment of the real and personal property, who shall enter the same on his duplicate, and which shall be collected and paid over in the same manner as is directed by the eighth section of the "Act defining the duties of county treasurer." Duty of assessor of Mercer county.

Sec. 4. That the "Act to attach the county of Allen to the county of Shelby," passed the twentieth day of February, eighteen hundred and twenty, be, and the same is hereby repealed. Act repealed.

Sec. 5. This act shall take effect and be in force from and after the first day of March next. Effect

EDWARD KING,
Speaker of the House of Representatives.
SAMUEL WHEELER,
Speaker of the Senate.

January 5, 1828.

AN ACT to amend the act, entitled "An act to establish an Asylum for the education of deaf and dumb persons."

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That Nathaniel McLean, Michael L. Sullivant and Henry Brown, of Franklin county, and Anthony Walke, of Ross county, be, and they are hereby appointed and made trustees of the Ohio Asylum for educating the deaf and dumb, in addition to the trustees named in the first section of the act to which this is an amendment, and that they shall hereafter be members of said board of trustees for all purposes whatever contemplated in said act, and shall hold their offices until the expiration of the term for which the trustees, named in the first section of said act, were appointed.

Sec. 2. That in order to aid the funds of said asylum, the auditor of state is hereby authorized and required forthwith to draw his order on the treasurer of state, in favor of the president of the board of trustees of said asylum, for the sum of three hundred and seventy-six dollars and sixty cents, being the unexpended balance of the literary fund now in the treasury.

EDWARD KING,
Speaker of the House of Representatives.
SAMUEL WHEELER,
Speaker of the Senate.

January 16, 1828.

AN ACT to establish the line between the counties of Madison and Union,

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That the line run as the line between the counties of Madison and Union, by Levi Phelps in the year one thousand eight hundred and twenty, be, and the same is hereby declared to be the established line between the aforesaid counties.

EDWARD KING,
Speaker of the House of Representatives.
SAMUEL WHEELER,
Speaker of the Senate.

January 18, 1828.

AN ACT directing the sale of sundry sections sixteen, for the use of schools.

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That section sixteen or fractional section sixteen, or other section or fractional section in lieu thereof, belong-

ing to any original surveyed township or fractional township, for the use of schools, and to the sale of which the inhabitants of such township or fractional township have given their assent, in the following named counties, shall be sold during the year eighteen hundred and twenty-eight, or as soon thereafter as practicable, in conformity with the provisions of the act, entitled "An act to provide for the sale of section sixteen, granted by Congress for the use of schools," to-wit: Logan, Athens, Wood, Columbiana, Delaware, Clark, Champaign, Butler, Franklin, Fairfield, Gallia, Scioto, Guernsey, Wayne, Holmes, Hamilton, Harrison, Knox, Jackson, Licking, Muskingum, Montgomery, Marion, Meigs, Miami, Morgan, Lawrence, Perry, Pike, Pickaway, Ross, Richland, Tuscarawas, Shelby, Seneca, Crawford, Stark, Washington and Dark, excepting the north-west quarter of section sixteen, in township sixteen and range six, and lot numbered one in section sixteen, in township nine and range nine, in the county of Stark, and excepting section sixteen, in Bloom township and county of Seneca.

EDWARD KING,
Speaker of the House of Representatives.
SAMUEL WHEELER,

January 19, 1828..

Speaker of the Senate.

AN ACT to organize the county of Hancock..

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That the county of Hancock, as heretofore laid off, shall be, and the same is hereby organized into a separate and distinct county; and all suits and prosecutions which shall be pending, and all crimes which shall have been committed within said county of Hancock, previous to its organization, shall be prosecuted to final judgment and execution within the county of Wood, in the same manner they would have been had the county of Hancock not been organized; and the sheriff, coroner and constables of Wood county shall execute, within the county of Hancock, such process as shall be necessary to carry into effect such suits, prosecutions and judgments; and the treasurer of the county of Wood shall collect all such taxes as shall have been levied and imposed within the county of Hancock, previous to the taking effect of this act.

Organization

Provision as
to suits com-
menced and
fines incurred

Sec. 2 That all justices of the peace and constables within the county of Hancock, shall continue to exercise the duties of their respective offices until their term of service expires, in the same manner as if the county of Hancock had remained attached to the county of Wood.

Sec. 3. That on the first Monday of April next, the legal voters, within the said county of Hancock, shall assemble within their respective townships, at the place of holding

Justices, &c.
to serve their
time out

elections, and elect their several county officers, who shall hold their offices until the next annual election.

Effect • This act shall take effect and be in force from and after the first day of March next.

EDWARD KING,
Speaker of the House of Representatives.
SAMUEL WHEELER,
Speaker of the Senate.

January 21, 1828.

AN ACT making special appropriations for certain purposes.

\$10,000 ap-
propriated for
the members Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That the sum of ten thousand dollars be, and the same is hereby appropriated for the payment of the members and officers of the present General Assembly, in part of their compensation for the present session,

\$2,000 appro-
priated for
Penitentiary Sec. 2. That a sum not exceeding two thousand dollars be, and the same is hereby appropriated for the purpose of defraying the expenses of the Penitentiary, including the costs of conviction and transportation of convicts.

EDWARD KING,
Speaker of the House of Representatives.
SAMUEL WHEELER,
Speaker of the Senate.

December 12, 1827.

AN ACT to amend, and supplementary to the act, entitled "An act for the appointment of a state printer, and defining his duties."

State printer
to be appoint-
ed by joint
ballot, and to
serve three
years Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That there shall be appointed, by joint ballot of both houses of the General Assembly, at the present session thereof, and by a majority of all the votes given, a state printer, whose term of service shall commence on the first day of July next, and who shall serve for the term of three years thereafter, and until his successor shall have been elected and qualified, unless sooner removed by a resolution of the General Assembly for neglect of duty or misconduct in office; and in case of the death or resignation of said printer, at any time during the recess of the General Assembly, the governor of the state shall have power to fill the vacancy, thus occasioned, by the appointment of a printer to serve until the first day of July, next succeeding the next session of the General Assembly.

Vacancy, how
filled

7

Sec. 2. That the governor of the state be, and he hereby Gov'r to ap-
is authorized to appoint a state printer to serve from the close point for cer-
of the present session of the General Assembly until the first tain time
day of July next.

Sec. 3. That such printer, when appointed or elected as Printer to
aforesaid, shall, before he enters upon the duties of his office, give bond
give the security required by the act to which this is an
amendment, and thereafter shall perform the duties, and be
entitled to such fees and emoluments as are, or may hereaf-
ter be provided for by law.

This act shall take effect and be in force from and after the Effect
passage thereof.

EDWARD KING,
Speaker of the House of Representatives.

SAMUEL WHEELER,
Speaker of the Senate.

December 22, 1827.

AN ACT to authorize the Treasurer of Licking county to give bond, &c.

Whereas the treasurer of Licking county neglected to give Preamble
bond, as is provided in the fifteenth section of the Act
obtaining the consent of the inhabitants of the United
States' Military district to the sale of the lands appropri-
ated for the support of schools within said district, and
to authorize the lessees of said lands to surrender their
leases and receive certificates of purchase;" and there
being a number at this time who wish to surrender their
leases: Therefore,

Sec. 1. *Be it enacted by the General Assembly of the state of* Co. auditor to
Ohio, That the auditor of Licking county is hereby authori- receive bond
zed to receive the bond of the treasurer of said county, agree- from treasurer
ably to the fifteenth section of the above recited act; which
bond shall be deemed good and valid in law, to all intents
and purposes, as though it had been executed under the pro-
visions, at the time specified in the original act.

This act to take effect and be in force from and after its Effect
passage.

EDWARD KING,
Speaker of the House of Representatives.

SAMUEL WHEELER,
Speaker of the Senate.

December 15, 1827.

AN ACT to amend the act, entitled "An act concerning divorce and alimony."

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio*, That all applications for a divorce, under the provisions of the act to which this is an amendment, shall be made within the county where the complainant actually resides at the time of making such application; and the supreme court shall hear and determine the same, whether the marriage took place, or the cause of divorce occurred within this state or elsewhere: *Provided*, The petitioner shall be a *bona fide* resident of the county where such application is made, and at least two years a resident of the state, next before the filing of his or her petition in the clerk's office of said court.

Sec. 2. That the eighth section of the act to which this is an amendment, be, and the same is hereby repealed.

EDWARD KING,
Speaker of the House of Representatives.
SAMUEL WHEELER,
Speaker of the Senate.

December 31, 1827.

AN ACT in addition to the act, entitled "An act providing for the collection of taxes on lands and town lots, which have accrued prior to the year one thousand eight hundred and twenty-six."

Provision as
to unoccupied
town lots

Co. auditor to
make out du-
plicates of
tax & penalty

Co. collector
to collect or
sell

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio*, That in all cases where unimproved or unoccupied town lots, or parts of lots, the owner or owners whereof do not reside within the limits of the town in which the same is situate, have been returned to the county auditor as delinquent for county, township or corporation taxes, which accrued prior to the year eighteen hundred and twenty-six, and which have not been sold under the provisions of the sixth section of the act to which this is in addition, for the payment of such delinquent taxes; it shall be the duty of the county auditor of the proper county, on or before the first Monday of August next, to make out a duplicate of such taxes, charging thereon the amount due, whether for county, township or corporation purposes, adding to the tax of each year a penalty of twenty-five per centum, together with the interest on such tax, and deliver the duplicate, so made, to the treasurer of such county; and such treasurer shall immediately proceed to collect all such taxes which remain due and unpaid, in the manner pointed out in the act, entitled "An act defining the duties of collectors of county taxes," passed the twenty-third day of February, in the year eighteen hundred and twenty-four; and the county treasurer, to whom such duplicate shall

be delivered as aforesaid, is hereby authorized to do and perform every act necessary to be done and performed relative to the collection of said taxes, making sale of such lots or parts of lots, and making deeds therefor, which a county collector was authorized and required to do, by the provisions of the last recited act; and if the said treasurer shall not make sale of such town lots or parts of lots, at the time and place advertised for the sale thereof, in consequence of no person bidding therefor, or for any other cause, it shall be his duty again to advertise and proceed to sell the same, according to the provisions of the last recited act.

Sec. 2. That any lot or part of a lot, sold agreeably to the provisions of the foregoing section, shall be subject to redemption, in the same manner as is pointed out in the "Act defining the duties of collectors of county tax," passed the twenty third day of February, eighteen hundred and twenty-four.

EDWARD KING,
Speaker of the House of Representatives.
SAMUEL WHEELER,
Speaker of the Senate.

December 31, 1827.

AN ACT to regulate public shows.

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That before any exhibitor or exhibitors of any traveling public show, not already prohibited by law, shall be allowed to exhibit or show any natural or artificial curiosity, or exhibitions of horsemanship, in a circus or otherwise, for any price, gain or reward, he or they shall apply to the county auditor of the county in which he or they intend to show or exhibit, for a permit; and the county auditor shall give him or them a permit specifying the time that he or they may be thus allowed to show or exhibit in the county, on the person or persons, thus applying, paying into the county treasury the amount said county auditor may assess on him or them, for the privilege of exhibiting or showing such show; which assessment shall in no case exceed fifty dollars, nor be less than ten: *Provided,* It shall not be necessary for any exhibitor or exhibitors, as aforesaid to obtain a permit from the county auditor, to shew or exhibit in any incorporated town or city where, by the laws or ordinances of such town or city, such exhibitor or exhibitors may be required to obtain a permit or license from the municipal authority of said town or city.

Sec. 2. That if any person or persons shall exhibit any public show, without first having obtained the permit according to the provisions of this act, he or they shall, for every such offence, pay the sum of fifty dollars, to be recovered in

an action of debt, at the suit of the county auditor or treasurer, or any other citizen of the county, before any justice of the peace of the county in which the offence may be committed, and paid into the treasury of said county.

Proceeds appropriate for county common schools
How distributed

Sec. 3. That all moneys paid into the treasury of any county, under the provisions of this act, shall be appropriated to the support of common schools in said county; and it shall be the duty of the auditor of such county, annually, to apportion the same to the respective school districts in his county, according to the number of householders therein, at the same time that he apportions the school tax to said districts, and shall draw on the treasurer in the same manner that he is directed by law to draw for the school tax.

This act shall take effect and be in force from and after the first day of May next.

EDWARD KING,

Speaker of the House of Representatives.

SAMUEL WHEELER,

Speaker of the Senate.

December 31, 1827.

AN ACT to amend the act, entitled "An act to provide for obtaining the consent of the inhabitants, of the United States' Military District, to the sale of lands appropriated for the support of schools within said District, and to authorize the lessees of said lands to surrender their leases and receive certificates of purchase, and for other purposes."

Duty of the county treasurers to receive the surrender of leases and to issue certificates of purchase

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That the treasurers of the several counties in which any of the United States' Military School Lands may be situated, are hereby authorized and required to receive the surrender of leases for said lands, and to issue certificates of purchase in the manner specified in the act to which this is an amendment, until the last day of November, one thousand eight hundred and twenty-eight; and the persons obtaining certificates of purchase, within said time, shall not be compelled to pay interest on any rents by them due, or which may be due at the time of receiving such certificate of purchase; and in all cases, in which any person has paid interest on any rent due from such person as a lessee of any part of said school land, since the first day of January eighteen hundred and twenty-seven, the same shall be allowed to such person, on account of any purchase money hereafter to be paid, or such person shall be entitled to have the amount of such interest refunded on demand made to the county treasurer, by him or them or their legal representatives.

Provision for refunding interest paid in certain cases

Provision for auditing rents to purchase money.

Sec. 2. That all rents which shall be due from any person or persons receiving a certificate of purchase under the provisions of this act, or the act to which this is an amendment, at the time of receiving such certificate, after deducting thir-

ty-seven and a half per centum therefrom, shall be added to the purchase money, and considered a part thereof, and with the same, shall be divided into the same number of instalments, and paid at the same periods, in the same manner, and with the same rate of interest from the date of said certificate, as the purchase money is required to be divided and paid by the act to which this is an amendment.

Sec. 3. That the treasurers of the respective counties are hereby required to allow to any of the lessees of said lands, or to their legal representatives, thirty-seven and a half per centum on the amount of rents by them respectively paid: *Provided*, Such person or persons have obtained or shall obtain a certificate of purchase before said last day of November, for the land on which said rents were paid, which sum so allowed shall be deducted from the first instalments of the purchase money of said land, or repaid to them in case they have already paid the full amount of the purchase money.

Treasurer to allow per centage on rents paid by lessees on certain conditions

Sec. 4. That in all cases where any person or persons holding any of said lands, both by temporary and permanent lease, has paid any rent which accrued under the covenants of the permanent, and before the expiration of the temporary lease, the treasurer of the county in which such rent has been paid is hereby required, on application to him for that purpose, by such person or persons, his or their legal representatives, to repay the same.

Treasurer to repay rent in certain cases

Sec. 5. That the treasurers of the several counties are hereby authorized and required, on application to them for that purpose, to issue separate certificates of purchase to the several persons holding any of said lands by permanent or temporary lease, as joint lessees or assignees for a quantity not less than half of a quarter section; and the quarter sections shall be divided, if division be necessary for the purpose aforesaid, by lines running due east and west, or north and south, parallel with the exterior lines of the quarter section; and no certificate of purchase shall be granted for any land held by permanent lease, at a rate per acre less than the amount required in said lease.

Sec. 6. That where any of said school lands have not already been surveyed into quarter sections, the courts of Common Pleas of the respective counties in which any of said lands are situate, shall at the next term of said courts after the passage of this act, appoint one or more skilful surveyor or surveyors, who shall employ the necessary number of chain carriers and markers, and shall forthwith proceed to survey and subdivide such of the quarter townships within said United States' Military District, appropriated for the use of schools therein as have not been already subdivided into quarter sections of one hundred and sixty acres each, as near as may be, by running parallel lines through the same. from north to south and from east to west, at the distance of a half

Court of common pleas to appoint surveyors in certain cases.

Duty of surveyors so appointed

Surveyors
duty contin'd

Surveyors
compensation

Court to ap-
point two ap-
praisers

Their duty is
in conjunction
with the sur-
veyor

Appraisement
list to be given
to co treasurer
who shall for-
ward copies

a mile from each other; the quarter sections shall be numbered, beginning with number one in the north-east corner of each quarter township, and proceeding west and east alternately through the quarter township until the twenty-fifth be completed; and the surveyor shall mark on a tree near each corner and within the quarter section, the number thereof and the number of the township and range, and shall establish a corner on the east and west lines of each quarter section, at a point equi-distant from each corner of the quarter section, and shall divide the quarter sections by running straight lines from the corners on the north to the corners established on the south lines of each quarter section, and all the lines shall be plainly marked on trees; each surveyor shall return to the treasurer of his county, on or before the first day of the term of the court of Common Pleas next succeeding the term at which such surveyor was appointed, a plat of each survey by him made as aforesaid, and also a copy of such survey to the Auditor of State, and he shall note thereon all roads and water courses across which the lines may run, and the quantity of land contained in each half quarter section; and where the exterior lines of said quarter township shall exceed two miles and a half or fall short of that length, the excess or deficiency shall be added to or deducted from the western and northern range of quarter sections as the case may be; and on the sale of each quarter or half quarter section, the quantity so returned by such surveyor, shall be considered the true quantity thereof; the surveyors shall each be entitled to receive one dollar and fifty cents per day while employed in surveying and platting under the provisions of this act, and the chain carriers and markers each seventy-five cents per day while employed under such surveyors.

Sec. 7. That said courts of Common Pleas, at the time they appoint surveyors under the provisions of the sixth section of this act, shall also appoint two reputable freeholders residents of their county as appraisers who with the surveyor shall immediately after the surveys are made and returned as aforesaid, view and appraise each half quarter section of said lands in their respective counties, not heretofore appraised by persons appointed by the courts of Common Pleas for that purpose; and in appraising those lands on which any improvements have been made by the holder of any temporary lease, said appraisers shall first value the same without regard to the improvements made thereon, and shall then value said improvements, and in making out a list of said appraisements they shall place the value of the land without the improvements and the value of the improvements in different columns; and said appraisers shall make out and sign a list of such appraisements, which they shall deliver to the treasurer of their county as soon as the same can be completed, who shall make out certified copies thereof and forward the same

to the auditor of state; said appraisers shall each be entitled to receive for their services one dollar per day while they are actually employed under the provisions of this section. to the state auditor Appraisers compensation

Sec. 8. That it shall be lawful for all legal holders of temporary leases for any of said lands to surrender the same, and take certificates of purchase for the lands embraced in their respective leases or any part thereof not less than half a quarter of a section, in the same manner and upon the same conditions, within the same time as the legal holders of permanent leases are authorized by the provisions of this act, and the act to which this is an amendment, to surrender their leases and receive certificates of purchase, and upon payment of the purchase money shall receive deeds, in the manner provided for making deeds to those who surrender permanent leases; and when any certificate of purchase shall be granted to the holder of any temporary lease which has not expired at the time such certificate is granted, in that case the value of said land, without the improvements, as returned by the appraisers as aforesaid, shall be considered the amount of purchase money; and in case such temporary lease has expired, when such certificate of purchase is granted, the value of the land, including the value of the improvements, as returned by said appraisers, shall be considered the amount of the purchase money. Lessee may give up leases and receive certificates of purchase Proceedings thereon

Sec. 9. That in all cases where money is directed or authorized by this act, or the act to which this is an amendment, to be paid out or refunded, the same shall be paid or refunded by the treasurer of the proper county, he taking duplicate receipts therefor, which shall specify the date, to whom paid, and on what account the same is paid; one of which said receipts the county treasurer shall file in his office, and the other he shall deliver to the auditor of state, with the statement of accounts which he is directed, by the act to which this is an amendment, to deliver to said auditor; and the sums so refunded, or paid by said treasurer, shall be allowed by the auditor of state in settling the accounts of such county treasurer. Co. treasurer to refund money, &c. Treasurer to report to state auditor

Sec. 10. That in all cases where a different mode of numbering quarter or half quarter sections, has been adopted, than is prescribed by the sixth section of this act, and temporary leases have been granted according thereto, the legal holders of such leases shall be entitled to receive certificates of purchase for the land they have actually occupied and improved, without regard to the numbers expressed in such leases. Proceedings where lots are improperly numbered

Sec. 11. That in all cases where the payment of the whole amount of the purchase money shall be made before the same becomes due, interest shall be exacted to the time of said payment only; and upon the completion of payment, the purchaser shall be entitled to receive his deed immediately. Purchaser to have a deed

Israel Dille
appointed in
Licking co'ty
to act instead
of treasurer

Sec. 12. That Israel Dille, of the county of Licking, be, and he is hereby appointed, instead of the treasurer of said county, to do and perform all and singular the duties and acts required of said treasurer by this act, and the act to which this is an amendment, and shall receive the same fees for his services as the treasurer would have been entitled to receive for the same services; and when any returns are required by said acts to be made to, or papers deposited with the treasurer of said county, the same shall be returned to, and be deposited with the said Israel Dille; and to carry this section in effect, the treasurer of said county of Licking is hereby required to deliver over to said Dille, on demand, all papers in his possession relating to said school lands: *Provided*, That before said Israel Dille shall enter upon the duties of this appointment he shall give bond, with security, according to the provisions of the fifteenth section of the act to which this is an amendment, except that, instead of being approved of by the court of common pleas, said bond shall be considered good, if approved by the associate judges of said county.

Proviso as to
giving bond

Clerks to de-
liver returns
to treasurer

Sec. 13. That it shall be the duty of the clerk of the several courts of common pleas, to whom any survey or appraisement of any of said lands have been returned, on demand, to deliver the same to the treasurer of the proper county, or other person appointed to superintend the sale of any of said lands, and take his receipt therefor.

EDWARD KING,
Speaker of the House of Representatives.

SAMUEL WHEELER.
Speaker of the Senate.

December 31, 1827.

AN ACT to prevent putting dead animal carcasses into rivers, water courses, &c.

Prohibition

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio*, That no person or persons, within this state, shall be permitted to put the carcase, or any part of any dead animal into any river, lake, creek, well, spring or water course, or into any public road or highway, or upon the surface of the ground, within the limits of any town or city, or suffer any dead animal, the property of such person or persons, to remain in any unclosed in-lot, street or alley.

Fine for a
violation
thereof

Sec. 2. That if any person shall violate the provisions of the first section of this act, it shall be lawful for any person to enter complaint thereof before any justice of the peace within the county where the offence may have been committed, and it is hereby made the duty of such justice to hear and determine the facts; and, upon conviction, to fine such person in

the sum of two dollars for every such offence, and costs of suit, which shall be collected as in other cases.

Sec. 3. That all fines that may be hereafter assessed, by Fines, how virtue of this act, shall, when collected by such justice, be disposed of by him paid, within ten days thereafter, into the township treasury, for the use of such township where the offence may have been committed.

EDWARD KING,
Speaker of the House of Representatives.

SAMUEL WHEELER,
Speaker of the Senate.

January 3, 1828.

AN ACT to amend the act, entitled "An act to incorporate and establish the city of Cincinnati, and for revising and repealing all laws, and parts of laws, heretofore enacted on that subject," passed the twenty-sixth day of January, in the year eighteen hundred and twenty-seven.

Ses. 1. *Be it enacted by the General Assembly of the state of Appeals an-Ohio,* That in all civil cases in which judgment shall be ren-^{thorized from}dered in the city court of said city of Cincinnati, where, by ^{city court to}the act to which this is an amendment, the said city court ^{supreme court}have original jurisdiction concurrent with the court of common pleas for Hamilton county, an appeal shall be allowed of course to the supreme court of the state, for the county of Hamilton, in the same manner, upon the same terms and conditions, and subject to the same restrictions and limitations that appeals are or may be allowed by law from the courts of common pleas to the supreme court; and the supreme court shall in all cases have the same superintending and reviewing jurisdiction over the records, proceedings, judgments and orders of the said city court, as over the records, proceedings, judgments and orders of the courts of common pleas; any law, usage or custom to the contrary notwithstanding: *Provided,* That the provisions of the act to which ^{Provide}this is an amendment, shall in no wise be so construed as to give the said city court any chancery or equity jurisdiction whatever, other than such as courts of law exercise according to the forms of legal proceedings.

EDWARD KING,
Speaker of the House of Representatives.

SAMUEL WHEELER,
Speaker of the Senate.

January 3, 1828.

AN ACT to amend the act, entitled "An act providing for the execution of real contracts in certain cases."

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio*, That when it may be necessary to petition the court of common pleas, under the provisions of the act to which this is an amendment, for an order to execute any contract for the conveyance of any tract of land through which any county line may run, the petition may be presented to the court of either county in which any part of such tract may be situated, and such court shall have the same power to hear such petition and grant the same order thereon as though such tract lay entirely in such county.

EDWARD KING,
Speaker of the House of Representatives.
SAMUEL WHEELER,
Speaker of the Senate.

January 21, 1828.

AN ACT to amend the act, entitled "An act making provision for carrying into effect the act for the punishment of crimes."

Convicts may be arrested & re-committed to prison

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio*, That the keeper of the penitentiary be, and he is hereby authorized and required to arrest, and cause to be arrested and again committed to safe keeping in the penitentiary, any and every convict who shall escape therefrom, and be found at large within the confines of this state, whether the term for which such convict has been or shall be sentenced to imprisonment in said penitentiary has or has not expired.

Keeper's duty

Sec. 2. That the said keeper be, and he is hereby authorized and required to detain any and every such convict, re-committed as aforesaid, until the residue of his, her or their term, from the time of such escape, shall be fully ended; and the said keeper shall treat any and every such convict, re-committed as aforesaid, in all things according to his, her or their original sentence.

Sheriffs, &c. to arrest fugitive convicts

Sec. 3. That it shall be the duty of all sheriffs, coroners and constables to arrest any and every such convict, and him, her or them forthwith convey to the said penitentiary, and deliver to the keeper thereof.

Sheriff's fees therefor

Sec. 4. That every sheriff, coroner or constable shall have the same power, be entitled to the same guard and shall be allowed the same fees that sheriffs have, are entitled to, and allowed, for conveying convicts to the penitentiary in other cases; which said fees shall be certified by said keeper, audited by the auditor of state and paid out of the state treasury.

Sec. 5. That the said keeper shall provide himself with a book, in which he shall enter the name of any and every convict who shall escape as aforesaid, with the day of the month and the year on which any such escape as aforesaid shall be made; which said time, so as aforesaid to be entered, shall be the time from which computation shall be made, in detaining any such convict, until the residue of his or her term as aforesaid shall have expired.

Keeper to enter in a book the names of convicts who have escaped

Sec. 6. That whenever the said keeper shall satisfy the governor that any such escape shall not have been occasioned by the negligence of the deputy keeper, or guard of the said penitentiary, the governor shall remit any penalty which shall have accrued for any such escape, suffered by such deputy keeper or guard, under the twenty-first section of the "Act making provision for carrying into effect the act for the punishment of crimes," in the same manner that he, the said governor is required to remit any such penalty accrued by reason of any such escape, when satisfied the same was not occasioned through the negligence of the said keeper.

Governor to remit penalty for escape on certain conditions

This act shall take effect and be in force from and after its passage.

EDWARD KING,

Speaker of the House of Representatives.

SAMUEL WHEELER,

Speaker of the Senate.

December 31, 1827.

AN ACT to amend the act, entitled "An act levying a tax on sales at auction in certain cases."

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That if any person within this state shall sell at auction any goods, wares or merchandize, except sales of insolvent estates, or sales by executors or administrators, or sales upon execution, or sales of stock, farming utensils, or sales ordered by any court of law or equity, and household furniture, or any article which may be manufactured within the limits of any agricultural and manufacturing society, by any member thereof, or any of the family of said member, and presented to it for a premium, or exhibited at their general exhibition, and sold by the order or sanction of said society, without having obtained a license as directed by the act of which this is amendatory; every person so offending shall, for every such offence, forfeit and pay the sum of five hundred dollars, to be sued for and recovered in an action of debt, in the name of the state of Ohio, before the court of Common Pleas of the proper county, and applied as required by the act of which this is amendatory: *Provided,* That no

Certain articles exempted from the provisions of this act

Penalty for selling certain articles without license

Proviso

penalties shall be inflicted, under the provisions of this section, where the court of any county shall not think proper to appoint an auctioneer.

Repealing
clause

Sec. 2. That the sixth section of the act, entitled "An act levying a tax on sales at auction in certain cases," be, and the same is hereby repealed.

EDWARD KING,

Speaker of the House of Representatives.

SAMUEL WHEELER,

Speaker of the Senate.

January 19, 1828.

AN ACT to provide for the vacating of town plats, and for other purposes.

Court of C.
Pleas on ap-
plication to
vacate

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That the courts of Common Pleas are hereby authorized and empowered, on application for that purpose made, by the proprietor or proprietors, his, her or their heirs, assignee or assignees, of any town, or of any addition of said town, situated within their proper county, to alter or vacate said town or its addition, or any part of either of them.

Proprietors to
give notice

Sec. 2. That if the proprietor or proprietors of said town, or of the addition thereof, his, her or their heirs, assignee or assignees, shall be desirous of altering or vacating the same, or any part thereof, such proprietor or proprietors, his, her or their heirs, assignee or assignees, shall give notice in writing of such intended application, in at least two places in the county wherein such town may be situated, one to be set up in the most public place in said town, and one on the court house door of said county; and shall also insert a copy of said notice in some newspaper printed in said county, and if no newspaper is printed in said county, then in some one having the most general circulation therein, at least sixty days prior to the sitting of said court, to which he, she or they intend to make such application; and which notices shall set forth and describe the part or parts intended to be vacated or altered and the right by which the party, making such application, claims.

On proof of
notice and
consent of lot
owners, the
court to pro-
ceed to make
an order

Sec. 3. That if such applicant shall produce to said court satisfactory evidence that the notice, required by the preceding section, has been given, and that all persons, owning any lot or part thereof, in said town, or the addition to said town, as the case may be, their authorized agent or attorney, have agreed that the whole or a part of said town, or its addition, shall be altered or vacated, the court shall, in their discretion, proceed to alter or vacate said town, or its addition, or any part of either; and the proceedings under this act shall be recorded by the clerk with the records of said

court, a copy whereof shall be made out and certified under the seal of said court, by the clerk thereof, and be by the party applying for such vacation or alteration of said town, or its addition, within thirty days from the rising of said court, deposited with the recorder of deeds for said county, who shall record the same: *Provided*, That the vacating of any town plat, or its addition or any part thereof, shall not vacate any part of a state or county road. Proceedings to be recorded by the clerk and a copy certified

Sec. 4. That the term to which the notice shall be given, as is provided for in the second section of this act, or at any subsequent term, during the pendency of said application, any person feeling interested in said proceedings, may, upon motion for that purpose, be made party defendant to said application, and in which case upon final hearing, the party succeeding shall have judgment against the other for the costs of said proceedings, and for which execution may issue as in other cases. Pleading before court

Sec. 5. That the clerk of the court shall be entitled to the sum of fifty cents for the recording of any plat required to be recorded under the provisions of this act; and for such other services, the same fees as are allowed for similar services by the act, entitled "An act to regulate the fees of civil officers in civil and criminal cases, passed February nineteenth, eighteen hundred and twenty-four." Clerk's fees

Sec. 6. That on application made and notice given according to the provisions of this act, the court of Common Pleas shall have power to change any commons that may be included in any town plat within their proper county into streets, and to cause such change to be recorded as is provided by the third section of this act. Further power of court

Sec. 7. That the act, entitled "An act for the vacating of town plats and for other purposes," passed December twenty-first, eighteen hundred and eleven, be, and the same is hereby repealed. Repealing clause

EDWARD KING,
Speaker of the House of Representatives.
SAMUEL WHEELER,
Speaker of the Senate.

January 29, 1828.

AN ACT to amend the act, entitled "An act to provide for the sale of the Salt Reservations belonging to the state of Ohio."

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio*, That no purchaser of any lands which have been or hereafter may be sold, by authority of this state, in any of the tracts commonly called the salt reserves, lying in the counties of Jackson, Delaware and Muskingum, shall be charged with Interest on instalments to be remitted if punctual payment be made

interest on any instalment of the purchase money which shall be paid when the same becomes due; any provision of the act to which this is an amendment to the contrary notwithstanding, but interest shall be charged from the date of the purchase as provided by the said act, in every case where the purchaser shall fail to make punctual payment of an instalment when it shall become due, and no purchaser as aforesaid, shall be charged with the payment of taxes on any lands purchased as aforesaid, for four years after the date of such purchase.

Agents to
prosecute
trespassers

To settle ac-
counts of les-
sees

Their com-
pensation

Sec. 2. That the agents appointed for superintending the sales of the salt reservations in the several counties in this state, shall be, and they are hereby authorized to prosecute in the name of the state of Ohio, every person or persons trespassing on said lands, before any court having jurisdiction thereof, and to pay into the treasury of said state all moneys recovered thereby, and they are further authorized to settle all outstanding accounts or claims against the lessees of any of the aforesaid lands, in such manner and upon such terms as may be most for the interest of the state, for which services they shall be allowed such compensation as the Auditor of State may deem just and equitable: *Provided*, The sum so allowed, shall not exceed the amount collected on said leases over and above all costs and other charges in collecting the same.

Duty of the
Agent of Mus-
kingum salt
reserve in sel-
ling land

Proviso

Sec. 3. That it shall be the duty of the agent aforesaid, to proceed to sell the salt reservations, in the county of Muskingum, in the same manner as is provided in the act, entitled "An act to provide for the sale of the salt reservations belonging to the state of Ohio," passed February the seventh, eighteen hundred and twenty-six: *Provided*, The said tract shall be offered at public sale at the door of the court house in the county of Muskingum, on the first day of the second term of the court of Common Pleas, to be holden after the passage of this act, and from term to term as said agent shall deem advisable.

EDWARD KING,

Speaker of the House of Representatives.

SAMUEL WHEELER,

Speaker of the Senate.

February 4, 1828.

AN ACT supplementary to "An act to provide for the proof and acknowledgment of deeds and other instruments of writing."

Deeds hereto-
fore executed
and acknow-

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio*, That all deeds and conveyances of lands, tenements or hereditaments situate, lying and being in this state, which

have been executed prior to the first day of January, one thousand eight hundred and eight, which deeds may have been acknowledged according to, and in compliance with the laws of this state, in force at the time such acknowledgment was taken and which have not subscribing witnesses thereto, are hereby declared effectual and valid in law, to all intents and purposes, in the same manner as if such deed had subscribing witnesses to the same: *Provided nevertheless*, That this section shall not be so construed, as to affect the title of any person or persons, body politic or corporate to any lands, tenements or hereditaments heretofore legally acquired under the laws of this state existing when such title was acquired.

Sec. 2. That it shall not be necessary to the validity of any lease of lands, tenements or hereditaments, which has heretofore been executed for any term of time whatever, so far as such lease may affect the rights of the lessor or lessee, or the assignee of such lessee; nor shall it be necessary to the validity of any such lease, which may hereafter be executed for any term of time, not exceeding three years, that the execution thereof, in either case, shall have been attested by two or more subscribing witnesses, or that it shall have been acknowledged before a judge of the court of Common Pleas or justice of the peace, or that the same shall have been placed upon record; any law or usage to the contrary notwithstanding.

Sec. 3. That leases of sections numbered sixteen and twenty-nine, or any part thereof, or of other sections or parts of sections in lieu thereof, granted or appropriated for the support of schools and of religion within this state, for any term not exceeding ten years, shall not be required to be attested, acknowledged or recorded as deeds for the conveyance or incumbrance of land, are by law required to be; any thing in the act to which this is supplementary, or in the preceding section of this act, to the contrary notwithstanding.

EDWARD KING,

Speaker of the House of Representatives.

SAMUEL WHEELER,

Speaker of the Senate.

February 4, 1828.

AN ACT to amend the act, entitled "An act to regulate the fees of civil officers in civil and criminal cases."

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio*, That each petit juror shall be allowed the sum of one dollar per day, for each day he may serve; the time served by each juror, shall be certified by the clerk of the proper court and the compensation above specified shall be paid by the

Proviso

county treasurer, on the order of the county auditor: *Provided*, That nothing in this act contained shall be construed to apply to a struck jury.

Six dollars to be charged on each trial and taxed in the bill of costs, collected and paid into the county treasury

Sec. 2. That there shall be paid by the party in whose favor a verdict may be rendered, and in case of a non-suit, by the party calling said jury, and taxed in the bill of costs in any civil cause tried in the court of Common Pleas or Supreme Court, the sum of six dollars, which sum shall be paid on the rendition of the verdict or judgment of non-suit as aforesaid, and before the same is recorded, into the hands of the sheriff of the proper county, and be by him paid over to the county treasurer under the direction of the court, and shall take the receipt of the treasurer for the same, which receipt he shall forthwith deliver to the county auditor who shall charge the treasurer therewith.

Juries in criminal cases how paid

Sec. 3. That in all criminal cases where a jury may be called to try the issue joined; and the defendant or defendants shall be convicted by the judgment or sentence of the court before whom the same may be tried, there shall be taxed in the bill of costs the sum of six dollars as a jury fee, and judgment shall be rendered therefor against such defendant or defendants, which sum when collected by the clerk of said court or the sheriff to whom execution shall have been issued, shall be by such clerk or sheriff paid over to the county treasurer as provided by the second section of this act.

Talesmen called as petit jurors how paid

Sec. 4 That each talesman serving as a juror in the court of Common Pleas or Supreme Court, shall be entitled to the sum of fifty cents for each jury trial he may serve on, to be paid out of the county treasury, on the order of the county auditor, and each petit juror who may be summoned to attend any court, and who shall be challenged as such juror, and excused from serving by the court, and each juror summoned for the trial of a capital offence who shall not be called to serve on such trial, shall be entitled to receive the sum of one dollar for every day he may necessarily attend such court to be paid as aforesaid.

Witnesses in criminal cases how paid

Sec. 5. That witnesses who shall have been duly recognized as such by the proper officer, and attending on courts in criminal cases, shall be entitled to the same fees and be paid in the same manner that witnesses summoned by order of the prosecuting attorney or defendant, in such cases are paid as provided by the twenty-second section of the act, entitled "An act pointing out the mode of trying criminals."

Repealing clause

Sec. 6. That the fourteenth section of the act, entitled "An act to regulate the fees of civil officers in civil and criminal cases," passed February the nineteenth, eighteen hundred and twenty four, and the twenty-third section of the act, entitled "An act pointing out the mode of trying criminals,"

passed January twenty-sixth, eighteen hundred and twenty-four, be, and the same are hereby repealed.

EDWARD KING,
Speaker of the House of Representatives.
 SAMUEL WHEELER,
Speaker of the Senate.

December 31, 1827.

AN ACT to provide for the sale of lands granted by Congress for the use of schools within the Virginia Military District, and to authorize the lessees of said land to surrender their leases and receive certificates of purchase.

Whereas, it appears by the abstract of votes given in pursuance of the act, entitled "An act to enable the inhabitants of the Virginia Military District to give their consent or dissent to the sale of lands granted by Congress for the use of schools in said district," passed January twenty-ninth, eighteen hundred and twenty-seven, that a majority of the votes given were in favor of the sale of said lands. Therefore,

Preamble

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That there shall be appointed by joint resolution three judicious persons as appraisers, who shall be residents, freeholders and inhabitants within the Virginia Military District, whose duty it shall be to view and appraise the unleased school lands belonging to the Virginia Military District, by half quarter sections, and make out, under oath, two correct lists of the same, with the value of each half quarter section specified therein, which lists they shall certify and sign, and deposit one with the register of said school lands, at his office in Mansfield, on or before the first day of September next, and the other with the Auditor of State, for which service, each of said appraisers shall be entitled to receive two dollars per day, for each day he may be employed in the duties of his appointment, to be paid out of the Virginia Military School Fund, upon the certificate of the register of said lands.

Three appraisers to be appointed
 Duty of appraisers
 Their compensation

Sec. 2. That the said lands (after a list of the appraisement as aforesaid shall have been received by the register) shall be offered at public sale to the highest bidder, in Mansfield, on the first day of the term of the court of Common Pleas, to be holden in the county of Richland, next succeeding the first day of October next, under the superintendence of said register, which sale shall remain open at least three days, and until all of said lands shall have been offered; and it shall be the duty of said register to give public notice of such sale, by publication in some newspaper published at

Time and place of sale

Register to
give sixty
days notice
before sale

Mansfield, Wooster, Mount Vernon, Columbus and Hillsborough; Pittsburgh and Lancaster, in Pennsylvania, and, also, by written advertisements, set up at the door of the court house in each of the counties in which any part of said lands may lie, at least sixty days previous to such sale.

Lands to sell
for amount of
valuation

Sec. 3. That no lands shall be sold by virtue of this act, at public or private sale for a less sum than that at which the same shall have been valued by the appraisers appointed under the provisions of this act; and that the sale of said lands be conducted in manner following, to wit: At the time of purchase, every purchaser shall pay to the register a sum equal to one twentieth part of the purchase money, and shall on or before the expiration of forty days pay to said register, one fourth part of the purchase money, including the said twentieth part, and if the said first instalment of one fourth part of the purchase money shall not be paid on or before the expiration of said term of forty days, the said twentieth part shall be forfeited, and said tract shall revert to the state in trust, for the use of schools in said district; the second instalment of one fourth part of the purchase money shall be paid within two years from the date of the purchase; the third instalment of one fourth part, shall be paid within three years, and the remaining fourth part of said purchase money shall be paid within four years from the date of the purchase, together with interest, at the rate of six per cent. per annum, on the three last instalments from the date of purchase until the same is paid.

Duty of Register in keeping office
procuring books, &c

Sec. 4. That the register shall keep his office in the town of Mansfield, in the county of Richland, and he shall procure a book in which he shall enter the sale of any tract of land made by him under the provisions of this act, noting therein the tract sold, the quantity and price together with the name or names of the purchaser or purchasers, and he shall procure a journal and ledger, in which he shall open an account with the purchaser or purchasers of each tract of land as aforesaid, and shall keep a general account with the state of Ohio, on account of the Virginia Military School Fund, agreeably to a plan to be furnished by the Auditor of State.

Land not bid
off may be
sold at private sale
Providso

Sec. 5. That after the said lands shall have been offered at public vendue, those remaining unsold at the public sale, shall be sold at private sale: *Provided*, That no tract bid off at public sale and forfeited for non-payment of the first instalment, shall be sold at private sale for a less sum than the same was bid off at public sale: *And provided always*, That if more than one person shall apply for the purchase of any lot or tract at the same time, it shall be the duty of the register to sell the said lot or tract to the highest bidder.

Further proviso

Purchaser to
have a certificate when the

Sec. 6. That it shall be the duty of the register when the balance of the first instalment is paid, to give to the purchaser or purchasers of each tract of land a certificate, stating the

date of purchase, the name or names and residence of the purchaser or purchasers, the tract, the quantity, the rate per acre, the sum paid and the balance of the purchase money remaining due, and on final payment being made, it shall be the duty of the register to give to the purchaser or purchasers, his, her or their legal representative or representatives a certificate stating the name or names and residence of the purchaser or purchasers, the date of the purchase, the tract, quantity, price per acre, the amount of purchase money and interest which has accrued, and that the same has been fully paid, and on presentation of which final certificate to the Auditor of State, it shall be his duty to examine the same, and if found correct and agreeably to the returns made to his office, he shall endorse the same on the said final certificate, and on the presentation of said final certificate so endorsed to the Governor, the purchaser or purchasers, his, her or their legal representative or representatives shall be entitled to receive a deed for the tract described in such certificate, which the Governor is hereby authorized to execute under the seal of the state, and which shall be signed by the Governor and countersigned by the Secretary of State, and which shall vest in the grantee or grantees an indefeasible estate in fee-simple, and it shall be the duty of the Auditor of State to procure all such deeds for execution as aforesaid.

first instalment is paid
Contents of the certificate

Final certificate to issue

Duty of the auditor of state

Governor to execute a deed to purchaser

Sec. 7. That if any tract of land sold as aforesaid shall not be completely paid for within one year after the date of the last instalment, the same shall be advertised for sale in the manner provided in the second section of this act, and the register shall sell the same at public vendue for a price not less than the whole arrears due thereon with the expense of sale; and the surplus, if any, shall be returned to the original purchaser or purchasers, or his, her or their legal representative or representatives, but if the sum due with interest shall not be bidden and paid, then the land shall revert to the state in trust for the use of schools in said Military District, and all money paid therefor shall be forfeited to the state for the use of schools as aforesaid, and the said tract shall be sold at private sale, in the same manner as others are sold at private sale under the provisions of this act.

Forfeiture when to take place
Proceedings thereon

Sec. 8. That in all cases in which leases have heretofore been granted of any part of the lands granted by Congress for the use of schools within the Virginia Military District, for the term of ninety-nine years, renewable forever, it shall be lawful for any person or persons being the legal holder or holders of such lease, at any time after the taking effect of this act, to surrender the same to the register of said lands, and it shall be the duty of said register to endorse on the back of such lease that the lessee or lessees or other person or persons being the legal holder or holders of the said lease, does forever relinquish and quit claim to the state of Ohio,

Lease holders may surrender their leases

Register to endorse the same and enter it in a book

all the right, title, interest, and estate of the said lessee or lessees, his, her or their legal representative or representatives in and to the said lease and the land therein described, and the said endorsement shall be signed by the person or persons making the same, in the presence of the said register; and it shall be the duty of the said register to enter in a book, to be provided for that purpose, the date of said lease, the name of the lessee or lessees, and the name of the assignee or assignees or other legal representative or representatives of the said lessee or lessees, the tract, the quantity, the rate per acre at which the said land was appraised or estimated prior to granting of said lease, and also the number and date of the certificate of purchase.

Lessees surrendering leases to be entitled to a certificate of purchase on certain conditions

Sec. 9. That on surrendering such lease as aforesaid, the lessee or lessees, his, her or their assignee or assignees, or other legal representative or representatives, (as the case may be) shall be entitled to receive from the register a certificate of purchase; which certificate the said register is hereby authorized to issue under his hand as register of said lands, and on complying with the following terms and conditions, the said lessee or lessees, his, her or their assignee or assignees, or other legal representative or representatives, shall be entitled to receive a deed of conveyance for the land described in the said surrendered lease; the person or persons in whose favor the said certificate shall be issued, his, her or their assignee or assignees, or other legal representative or representatives shall pay to the register of said lands a sum equal to the amount at which said land was appraised or estimated prior to giving such lease, and on which the said lessee or lessees were by the terms of said lease bound to pay interest; and which sum shall be paid in manner following, to wit: the said purchase money shall be divided into ten equal instalments, the first of which shall be paid at the time of obtaining the certificate of purchase, the second shall become due and payable on the last day of the next succeeding December, and the remaining instalments shall become due and payable on the last day of each succeeding December, together with interest, at the rate of six per centum per annum on each of said instalments, as they severally become due, and also interest on the whole amount of purchase money which may remain unpaid at the time of payment of any of the instalments as aforesaid: *Provided*, That no person or persons shall be permitted to surrender any lease or leases and obtain certificates of purchase as aforesaid, until all arrearages of rent, due on any such lease or leases be paid to the register of said lands.

Terms of purchase

Proviso

Form of the certificate of purchase

Sec. 10. That the certificate of purchase, to be issued as aforesaid, shall state the name of the original lessee or lessees, and also the name of the assignee or assignees, his, her or their legal representative or representatives, who surrender-

ed the said lease, and the date of such lease, the tract, quantity, rate per acre, amount of purchase money, the date and number of the certificate, the name or names and residence of the person or persons in whose favor the same is issued, the amount of each instalment, the time the same becomes due; and that on making full payment of the purchase money and interest, the person or persons in whose favor the said certificate is issued, shall be entitled to receive a final certificate, which the register shall issue, and which final certificate shall state the date and number of the first certificate, the name or names and residence of the purchaser or purchasers, the tract, the quantity, the rate per acre, amount of purchase money and interest, and also the different payments and date thereof, which has been made on account of such purchase, and that full payment thereof has been made agreeably to such statement; and on the presentation of every such final certificate to the auditor of state, he shall be entitled to receive a deed in manner pointed out in the sixth section of this act: *Provided*, That the purchaser or purchasers of any of said school lands, sold under the provisions of this act, either at public or private sale, or on surrendered leases, may at the time of purchase or at any time subsequent thereto, and prior to the forfeiture of such lands, be entitled to receive a final certificate as aforesaid, on the full payment of the purchase money and interest that may be due thereon up to the time of obtaining such certificate; and on the presentation of such final certificate, as required in other cases, a deed shall be granted to any such purchaser or purchasers, his, her or their legal representative or representatives.

Final certificate to issue

Provido

Sec. 11. That if any of the instalments and interest due on any lands, the leases of which may have been surrendered, and certificates of purchase obtained as aforesaid, shall remain unpaid for the term of one year after the same may have become due, the tract of land on which the same is due and unpaid shall be advertised for sale, and the same shall be sold at public sale after having been previously advertised for at least twenty days, in a newspaper printed at Mansfield, during the sitting of the court of common pleas, in Richland county, to be holden next after the date of such advertisement, for a sum not less than the amount due the state, including interest and expense of sale, and the surplus, if any, shall be paid to the purchaser or purchasers, his, her or their legal representative or representatives, if they or either of them shall be present, and will receive the same, if not, such surplus shall be deposited in the state treasury, there to remain until the same shall be applied for by such original purchaser or purchasers, his, her or their legal representative or representatives; and the purchaser or purchasers at such sale shall be entitled to receive a certificate of purchase from the register; which certificate shall state the number and date of

Forfeiture when to take place

Forfeited lands to be sold after notice

Purchaser to receive a certificate of purchase

the original certificate, the name or names of the original purchaser or purchasers, and a description of the land as given in the original certificate, which shall convey to such purchaser or purchasers all the right and privileges of the first purchaser or purchasers; and on full payment being made, such purchaser or purchasers, his, her or their legal representative or representatives shall be entitled to receive a final certificate and deed, as is provided in case of original purchasers; and if any purchaser or purchasers, at public sale, fail to make immediate payment agreeably to the terms of sale, the tract shall again be offered for sale as if no such sale had taken place: *Provided*, The bid of such person, so failing to make payment, shall not be again received for such land.

Final certificate to issue

Proviso

Disposition of land on failure to pay instalments

Sec. 12. That if any purchaser or purchasers, at public sale, under the provisions of the eleventh section of this act, shall fail to make payment of any instalment, and interest thereon, within six months after the same shall become due, the said land shall be sold in the same manner and subject to the same conditions as are provided in the next preceding section of this act; but if the sum due and interest shall not be bidden and paid as aforesaid, the said land shall revert to the state in trust as aforesaid, and all moneys paid therefor shall be forfeited, and said land shall be sold in such manner as may be hereafter directed by law.

Register to report to state auditor quarterly

Sec. 13. That the register shall, at the expiration of the months of March, June, September and December, in each and every year, make a correct list of all leases surrendered, and all lands sold under the provisions of this act, and transmit the same to the auditor of state; and at the same time he shall pay into the treasury of state all money received by him on such sales, for the use of schools within the Virginia Military District, and take the treasurer's receipt therefor, which he shall deposit with the auditor of state; and the auditor shall file the same in his office, and charge the treasurer therewith.

Auditor to furnish the register with blank forms

Sec. 14. That it shall be the duty of the auditor to furnish the register of said school lands with such books, certificates, blanks and forms, and also with such instructions as may be necessary to enable him to carry the provisions of this act into effect.

Registers' compensation

Sec. 15. That the register of said school lands shall be entitled to receive three per cent. on the amount actually received and paid into the state treasury, under the provisions of this act.

Register to give bond

Sec. 16. That the register of said Virginia Military District School Lands, before he enters upon the duties assigned him by this act, shall give bond to the state of Ohio with two or more good and sufficient securities, to be approved of by the court of common pleas for said county of Richland, in any sum not less than fifty thousand dollars, conditioned for the

faithful discharge of all the duties of his office, and if said register shall neglect or refuse to give bond in manner aforesaid, before the first day of August next, it shall be the duty of the Governor to appoint an agent for the sale of said lands, who shall before entering upon the duties of his office, give bond in manner aforesaid, and shall take an oath for the faithful discharge of the duties of his office, and the agent thus appointed shall be, and he is hereby invested with all the power and authority given to the register aforesaid by this act, and shall hold his office until the end of the session of the legislature next thereafter, and until his successor shall be appointed and duly qualified, which bond shall be recorded at full length in the minutes of said court. and the original deposited with the auditor of state for safe keeping.

EDWARD KING,
Speaker of the House of Representatives.

SAMUEL WHEELER,
Speaker of the Senate.

January 28, 1828.

AN ACT to amend the act to regulate the times of holding the judicial courts, passed January 30, 1827.

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That the Supreme Courts shall be holden as follows, *Times of* to wit: In the county of Pike, on the twenty-first day of April; in the county of Jackson, on the twenty-third day of April; in the county of Gallia, on the twenty-fifth day of April; in the county of Lawrence, on the twenty-eighth day of April; in the county of Scioto, on the first day of May; in the county of Adams, on the fifth day of May; in the county of Brown, on the eighth day of May; in the county of Clermont, on the twelfth day of May; in the county of Hamilton, on the sixteenth day of May; in the county of Butler, on the third day of June; in the county of Warren, on the seventh day of June; in the county of Clinton, on the twelfth day of June; in the county of Highland, on the sixteenth day of June; in the county of Fayette, on the nineteenth day of June; in the county of Green, on the twenty-third day of June; in the county of Montgomery, on the twenty-sixth day of June; in the county of Preble, on the thirtieth day of June; in the county of Dark, on the third day of July; in the county of Mercer, on the fifth day of July; in the county of Miami, on the seventh day of July; in the county of Shelby, on the tenth day of July; in the county of Logan, on the twelfth day of July; in the county of Champaign, on the

the second Monday in September; in the county of Cuyahoga, on the fourth Monday next succeeding the third Monday in February, the Monday next succeeding the third Monday in May, and the fourth Monday next succeeding the second Monday in September; in the county of Geauga, on the sixth Monday next succeeding the third Monday in February, the second Monday next succeeding the third Monday in May, and the sixth Monday next succeeding the second Monday in September; in the county of Ashtabula, on the eighth Monday next succeeding the third Monday in February, on the third Monday next succeeding the third Monday in May, and on the eighth Monday next succeeding the second Monday in September; and in the county of Trumbull, on the tenth Monday next succeeding the third Monday in February, on the fourth Monday next succeeding the third Monday in May, and on the tenth Monday next succeeding the second Monday in September.

Fourth circuit

Times of holding courts therein

Sec. 5. That the counties of Perry, Licking, Knox, Wayne, Holmes, Tuscarawas, Coshocton and Muskingum shall compose the fourth circuit, and the Courts of Common Pleas shall commence and be holden therein as follows, to wit: In the county of Perry, on the eighteenth day of February, the twenty-sixth day of May, and the twenty-ninth day of September; in the county of Licking, on the twenty-fifth day of February, the second day of June, and the sixth day of October; in the county of Knox, on the tenth day of March, the sixteenth day of June, and the twenty-seventh day of October; in the county of Wayne, on the seventeenth day of March, the twenty-third day of June, and third day of November; in the county of Holmes, on the thirty-first day of March, the thirtieth day of June, and the tenth day of November; in the county of Tuscarawas, on the twenty-seventh day of March, the third day of July, and the thirteenth day of November; in the county of Coshocton on the third day of April, the twenty-eighth day of July, and nineteenth day of November; and in the county of Muskingum, on the twenty-first day of April, the fourth day of August, and the twenty-fourth day of November.

Fifth circuit

Times of holding courts therein

Sec. 6. That the counties of Belmont, Monroe, Guernsey, Harrison, Columbiana, Stark, and Jefferson, shall compose the fifth circuit; and the courts of Common Pleas shall commence and be holden therein as follows, to wit: In the county of Belmont, on the tenth day of March, the ninth day of June, and the fifteenth day of September; in the county of Monroe, on the nineteenth day of March, the eighteenth of June, and the twenty-fourth day of September; in the county of Guernsey, on the twenty-fifth day of March, the twenty-fourth day of June, and the twenty-ninth day of September; in the county of Harrison, on the thirty-first day of March, the twenty-eighth day of July, and the twenty-seventh day of October;

in the county of Stark, on the seventh day of April, the fourth day of August, and the third day of November; in the county of Columbiana, on the fourteenth day of April, the eighteenth day of August, and the tenth day of November; and in the county of Jefferson, on the twenty-first day of April, the twenty-fifth day of August, and the seventeenth day of November.

Sec. 7. That the counties of Madison, Fayette, Ross, Pickaway, Fairfield, Hocking, Franklin and Union shall compose the sixth circuit, and the Courts of Common Pleas shall be holden therein as follows, to wit: in the county of Madison, on the twenty-fifth day of February, the second day of June, and the fifteenth day of September; in the county of Fayette, on the twelfth day of May, and the twenty-second day of September; in the county of Ross, on the third day of March, the nineteenth day of May, and the twenty-ninth day of September; in the county of Pickaway, on the seventeenth day of March, the ninth day of June, and the twentieth day of October; in the county of Fairfield, on the twenty-fourth day of March, the sixteenth day of June and the thirteenth day of October; in the county of Hocking, on the second day of April, and the ninth day of October; in the county of Franklin, on the seventh day of April, the first day of September, and seventeenth day of November; and in the county of Union, on the twentieth day of February, and tenth day of September.

Sec. 8. That the counties of Butler, Adams, Highland, Clinton, Warren and Green, shall compose the seventh circuit, and the courts of Common Pleas shall commence and be holden therein as follows, to wit: In the county of Butler, on the fourth Monday of February, the third Monday of May, and second Monday of September; in the county of Adams, on the third Monday of March, the third Monday of June, and fifth Monday of September; in the county of Highland, on the fourth Monday of March, the second Monday in July, and first Monday of October; in the county of Clinton, on the fifth Monday of March, the fourth Monday of July, and third Monday of October; in the county of Warren, on the second Monday of April, the second Monday of August, and fourth Monday of October; and in the county of Green, on the fourth Monday of April, the fourth Monday of August, and third Monday of November.

Sec. 9. That the counties of Pike, Jackson, Scioto, Lawrence, Gallia, Meigs, Athens, Morgan, and Washington shall compose the eighth circuit, and the Courts of Common Pleas shall commence and be holden therein at the times and in the order following, that is to say: in the county of Lawrence, on the last Monday in February, the second Monday in June and the first Monday in September; in the county of Scioto, on the next succeeding Mondays thereafter; and in the counties

of Pike, Jackson, Meigs, Athens, Morgan and Washington successively, on the next succeeding Mondays consecutively; and in the county of Gallia, on the first Monday in May, the first Monday in August and the second Monday in November: *Provided*, That the court in the county of Morgan shall be holden on Wednesday following the second Monday in October.

Sundays excepted Sec. 10. That should the day mentioned in this act for the holding of any court, fall on the Sabbath the court shall commence and be holden the day following.

Repealing clause Sec. 11. That the first, second, third, fourth, fifth, sixth, seventh, eighth, and ninth sections of the "Act to regulate the times of holding the Judicial Courts," passed January thirtieth, eighteen hundred and twenty-seven, be, and the same are hereby repealed; and all suits and process in any of the said courts mentioned in this act, shall be continued or returned to the next term of said courts respectively, after the taking effect of this act.

EDWARD KING,

Speaker of the House of Representatives.

SAMUEL WHEELER,

Speaker of the Senate.

February 9, 1828.

AN ACT to amend the act, entitled "An act directing the mode of proceeding in Chancery."

Proceedings on mortgages when the premises are situated in two or more counties Sec. 1. *Be it enacted by the General Assembly of the state of Ohio*, That in all suits in Chancery, which may hereafter be brought in the court of common pleas, or in the supreme court, for the foreclosure or redemption of any mortgage, or for the foreclosure or specific performance of any contract in writing for the sale or incumbrance of real estate, and the real estate described in said mortgage or contract, shall be situated in different counties in this state, it shall be lawful for the complainant to bring his suit in either of the counties in which any part of said real estate is situated; and the court shall have power to hear and determine the same, and make such decree therein as they might do in case all the real estate was situated in the county in which the suit is brought; and any order, interlocutory or final decree made in such suit, shall be enforced and carried into effect by execution or other proper process, to be issued and directed to the sheriff of any county in this state, in which any part of said real estate is situated: *Provided*, That any decree made in any such suit shall not operate in any county, other than the one in which said suit is brought, to the prejudice of any *bona fide* creditor or purchaser, without notice of such decree, until a certified copy thereof

Duty of the court

Proviso

shall be recorded in the records of deeds in the several counties in which said real estate is situated.

Sec. 2. That in all cases where a judgment shall have been obtained, at law, for the payment of money, in the court of common pleas or supreme court, and the judgment debtor shall hold real estate incumbered by mortgage, which the judgment creditor may be desirous to have taken in execution and sold for the payment of said judgment the judgment creditor or his legal representatives, shall first file a bill in chancery in the court of common pleas or supreme court of the proper county against the said judgment debtor, his heirs or assigns, and make the mortgagee or his legal representatives, a party thereto, setting forth the judgment, and describing the mortgaged premises as nearly as may be, and praying that the amount due on said mortgage may be ascertained and liquidated, agreeably to the rules and usages of courts of chancery, and that the mortgaged premises may be sold, subject to the interest of the mortgagee therein, to satisfy said judgment; and the court shall decree a sale thereof, to be conducted in all respects in the same manner as is or hereafter may be provided for by law for the sale of real estate: *Provided*, That the inquest or appraisers, who may be called on to view and appraise said real estate shall appraise the same, subject to the interest of the mortgagee therein.

Proceedings when judgment debtor holds lands by mortgage

EDWARD KING,

Speaker of the House of Representatives.

SAMUEL WHEELER,

Speaker of the Senate.

February 11, 1828.

AN ACT to amend an act, entitled "An act establishing an equitable mode of levying the taxes of this state," passed February third, eighteen hundred and twenty-five.

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio*, That every person, body politic or corporate, shall be bound to list, and shall stand chargeable with tax upon all personal property made subject to taxation by the act to which this is an amendment; by such person, body politic or corporate, owned or possessed on the first day of March, in each and every year; and that so much of the twenty-second section of the act to which is an amendment, as comes in contravention with the provisions of this act, be, and the same is hereby repealed.

Provision charging persons with tax on property owned first of March, annually

Sec. 2. That the assessors of the several counties in this state, annually, in taking the lists of the chattel property in their respective counties, may dispense with the signature of the name or names of the person or persons giving in such

Duty of the assessor in assessing property

list or lists, the assessor specially noticing of whom the same was received, as the nature of the case may require; any law pointing out the duty of the assessors of the several counties in this state, to the contrary notwithstanding.

Effect

This act to take effect and be in force from and after the passage thereof.

EDWARD KING,

Speaker of the House of Representatives.

SAMUEL WHEELER,

Speaker of the Senate.

February 12, 1828.

AN ACT to provide more effectually for the taking of depositions, and to dispense with the making of full records of judgments in certain cases.

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That each and every judicial officer who is or may be authorized, by the laws of this state, to take depositions within the same, shall have power, at the request of any person or persons who may be desirous of taking the deposition of any witness, resident in this state, in, or relating to any suit, or judicial matter or proceeding, depending in any county of this state, or in any other state, district, territory or country, to cause such witness or witnesses, by subpoena, to appear before him or them, on reasonable notice, at a specified time and place, for that purpose; and if any person, who shall have been summoned to appear, as aforesaid, shall neglect or refuse to attend accordingly, not having a reasonable excuse for such failure or neglect, the officer or officers, issuing such subpoena, is and are hereby authorized to cause such witness, by attachment, to be brought before him or them, and for want of a reasonable excuse, as aforesaid, to fine such witness in any sum not exceeding fifty dollars, to the use of the party for whom such witness was summoned, with costs; and such witness shall moreover be liable to the action of the party for all damages sustained by the non-attendance of such witness; and if any witness, not incompetent to testify in the cause or matter, or not protected, by the rules of law, from testifying therein, having appeared as required, shall refuse to testify, the magistrate or judge, issuing such subpoena, shall fine him or her in any sum not exceeding fifty dollars, nor less than five dollars, to the use of the party for whom such witness was summoned, or commit such witness to the county jail until he or she shall be willing to testify: *Provided,* That any witness, before attending or testifying, as aforesaid, if he or she require it, shall be paid his or her lawful fees for attendance.

Duty of persons authorized to take depositions

Proceedings when persons refuse to attend and give evidence

Proviso, as to fees being advanced

Sec. 2. That depositions, taken pursuant to law, shall be admissible in evidence, in civil cases, in the courts of justices of the peace and of a mayor or other judicial officer of a city or town, such depositions being sealed and addressed, or delivered, by the officer taking the same, to such justice, mayor, or other judicial officer; and, having been taken and admitted in evidence in any such inferior court, may, on appeal therefrom, be read in evidence, in the same cause, in the court to which such appeal shall be taken; subject, however, to all legal exceptions thereto: *Provided, however,* That such depositions shall be filed with the clerk of the court of common pleas, to which such appeal may be taken, on or before the second day of the term of said court next succeeding the taking of such appeal. Depositions to be received as evidence

Sec. 3. That in future it shall not be the duty of the clerk of any court of common pleas, of this state, to make out a complete record, or a transcript thereof, in any suit or cause, at law or in equity, prosecuted and determined in such court, which shall be appealed to the supreme court; but, in suits or causes which shall be appealed, as aforesaid, such clerk shall, with the usual docket and journal entries, including the final judgment or decree, certify to the supreme court, upon such appeal, the original papers and pleadings of the cause, and deposit the same in the office of the clerk of the supreme court of his county; in which court, only, on a final judgment or decree, a full record shall be made, as in other cases; any thing contained in the ninety-third section of the "Act to organize the judicial courts and regulate their practice," or in the thirty-seventh section of the "Act directing the mode of proceeding in chancery," to the contrary notwithstanding: *Provided,* That in cases of appeal, as aforesaid, either party may require a full record to be made in the common pleas, at his, her, or their own proper costs; and the clerk of the common pleas shall be allowed and entitled to charge in the bill of costs, for certifying the cause and papers to the supreme court as aforesaid, one dollar. Duty of clerk in making up complete records

This act to take effect from and after the first day of June next.

EDWARD KING,
Speaker of the House of Representatives.

SAMUEL WHEELER,
Speaker of the Senate.

February 12, 1828.

AN ACT to exempt from taxation certain lots in the town of Perrysburgh, in the county of Wood.

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That the town lots in the town of Perrysburgh, in the

county of Wood, which now are, and shall continue to be owned by said county of Wood, for the period of five years from and after the taking effect of this act, and which lots were granted to said county of Wood, by an act of Congress, on condition that the seat of justice for said county should be permanently established at the said town of Perrysburgh, be, and the same are hereby exempted from taxation for state, canal and county purposes, for the said term of five years: *Provided*, That if said county shall at any time dispose of all or any part of said lots, then the exemption granted by this act shall cease and determine, as to those lots so disposed of as aforesaid; any thing herein contained to the contrary notwithstanding.

EDWARD KING,

Speaker of the House of Representatives.

SAMUEL WHEELER,

Speaker of the Senate.

February 11, 1828.

AN ACT supplementary to the act, entitled "An act to provide for the partition of real estate."

Duty of the
cl'k of courts

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio*, That when the inquest, who may be appointed by the court to make partition under the act to which this is supplementary, shall have returned, in writing, their apportionment of the tract or tracts of land of which partition has been demanded, the clerk of the court to which the same has been returned, after the court shall have confirmed the partition of the premises aforesaid, shall, forthwith thereafter, make out an accurate copy of the return of said inquest, and deposit it with the auditor of said county, whose duty it shall be to enter the said tract, or subdivided tracts of land, so apportioned, in his list of taxable property, with the value of each share as divided by said inquest, that each one entitled to his proportion of the premises aforesaid may stand chargeable for the tax on the same; the legal costs of which services, herein required, the clerk of said court shall tax with the other costs of said petition for partition.

Costs how
charged and
paid

EDWARD KING,

Speaker of the House of Representatives.

SAMUEL WHEELER,

Speaker of the Senate.

February 12, 1828.

AN ACT to amend the "act for the protection of the Ohio Canals."

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That for all damages done to either of the canals constructing under the authority of this state, the offender or offenders shall be proceeded against by indictment in the proper courts; and on complaint being made to any judge or justice of the peace, of the proper county, against any person or persons doing any such damage as is mentioned in the first, second, third and fourth sections of the act to which this is an amendment, it shall be the duty of such judge or justice forthwith to issue a warrant to the proper officer to arrest, and bring before him, such offender or offenders; and if upon the return of such warrant, it shall appear to the satisfaction of such judge or justice that such complaint is true, he shall commit such offender or offenders, if he or they shall refuse to give security for their appearance at the next court of common pleas, for the proper county, to answer to said complaint: *Provided however,* That if the offender or offenders shall pay to such judge or justice of the peace the penalties, forfeitures and expenses which he or they may have incurred, together with the costs of prosecution, such offender or offenders shall be discharged.

Manner of recovering damages

Proviso

Sec. 2. That the canal commissioners be, and they are hereby authorized and empowered to cut a navigable side cut or branch canal from the main canal, to enter the Muskingum river at or near the town of Dresden, when in their opinion the interest of the state may require such side cut or branch canal; and, also, to construct or permit to be constructed a navigable communication between the Miami canal and the town of Hamilton, in the county of Butler, and if they should deem it inexpedient to construct such communication at the expense of the state, they may permit it to be done at the expense of individuals desiring such communication, under such regulations and restrictions as will secure the interest of the state.

Side cut to be made from the canal to the Muskingum river

Also one from the Miami canal to the town of Hamilton

Sec. 3. That the canal commissioners shall, from time to time, make such rules and regulations, not inconsistent with the laws of the state, in respect to size and structure of boats, rafts and other floats, on the waters of the canals; and the weighing and inspecting of boats, and their loading, and in respect to all matters connected with the navigation of the canals; and impose such forfeitures of money, for the breach of such rules and regulations, as they may judge reasonable; and to provide for the detention and sale of any such boats, rafts, and other floats, as shall or may contravene such rules and regulations, in cases where the owner or owners of such boats, rafts, or other floats, shall neglect or refuse to pay such forfeiture: *Provided,* That no forfeiture so imposed, shall for a single offence, exceed the amount of actual damage done

Canal commissioners to regulate the size and construction of canal boats, &c.

Proviso

Further proviso thereby more than twenty-five dollars: *And provided also*, That nothing in this section shall be construed to prevent said forfeitures being recovered by action of debt, at the suit of any canal commissioner, or any of the officers or agents employed by said commissioners, who are hereby authorized to sue for and recover the same for the use of the state.

Copies of regulations to be printed and distributed Sec. 4. That the canal commissioners shall cause a sufficient number of all such rules and regulations, including the forfeitures for the breach thereof, to be printed, and shall distribute the same to the superintendents, the collectors of tolls, and lock keepers, to be kept in their respective offices for public inspection.

Canal Com. may sell surplus water Sec. 5. That whenever, in the opinion of the board of canal commissioners, any water may be spared from any state canal, or works connected therewith, without injury to the navigation or safety of such canal, the board may order a sale of such surplus water, for a term of years, in their discretion, to the person who shall bid the highest annual rent therefor: *Provided*, The same shall not in anywise interfere with the rights of individuals.

Proviso Sec. 6. That the collectors of tolls on the canals shall be, and they are hereby authorized to administer oaths in all cases wherein oaths may be required to be administered in performing the duties required of them in their offices.

Collectors of toll may administer oaths Sec. 7. That any acting commissioner, engineer or superintendent, duly appointed, shall have full power and authority, at any time, to cause the water to be drawn off, either wholly or partially, from any level or levels of either of the canals which may be under the charge of such acting commissioner, engineer or superintendent, and to cause the water to remain wholly or partially drawn off during such time as he may deem necessary, for the purpose of repairing or preventing any breach or breaches, or removing any bar or other obstruction to navigation, or for the purpose of making, repairing or improving any work or device or part of any work or device appertaining to, or connected with any such part of the canals; and for the purpose of so drawing off the water, or causing the same to remain drawn off, as aforesaid, to open or to close any lock gate, culvert gate, paddle gate, feeder gate, or waste gate, or to cut or make an opening gap or aperture in any bank, and to cause the said gates or apertures to remain open or shut, as aforesaid, so long as the same shall, in the opinion of such person, be necessary for any of the aforesaid purposes: *Provided, however*, That every engineer or superintendent shall, in the exercise of the authority hereby granted, be subject to the orders and instructions of the acting commissioner, or any engineer of superior grade, having charge of the part of the canal affected, or liable to be affected, by the exercise of said authority.

Powers of Com'rs in drawing off water, &c.

Proviso

Sec. 8. That if any person, except a commissioner, engineer or superintendent, shall, under any pretence, or for any purpose whatever, open any gate which shall have been shut or shut any gate which shall have been opened, as specified in the preceding section, without the express direction of the acting commissioner, engineer or superintendent, who shall at that time have charge of that part of the canal, or shall in any way interfere in raising or drawing down the water on any level of either of the canals, contrary to the directions or orders of the acting commissioner, engineer, superintendent or lock tender, having charge of any lock or part of the canal liable to be affected by such interference, every person so offending shall, for every such offence, forfeit and pay the sum of twenty-five dollars, and moreover be liable for all damages consequent upon any such opening or shutting of any gate, or interference. Penalty on individuals for opening or shutting, &c without consent

Sec. 9. That the captain or master, and the owner of any boat or other float on either of the canals authorized to be made in this state, and likewise the boat or float itself, shall severally be liable to the payment of any penalty, forfeiture and likewise to all damages which may accrue in consequence of the violation of any of the provisions of any law of the state or any order of the board of canal commissioners, duly made and published, relating to the canals, the navigation thereof or the collection of tolls thereon, by any person navigating any such boat, or assisting in the navigation or management thereof at the time of such violation; and any such boat or other float may, at the discretion of either acting commissioner or any collector of toll, be prevented from navigating either of said canals until such penalty, forfeiture and damages and costs accrued in prosecuting therefor, shall be fully paid. Captain, owner or boat liable for payment of penalties

Sec. 10. That all laws, and parts of laws, inconsistent with the provisions of this act, be, and the same are hereby repealed. Repealing clause

EDWARD KING,
Speaker of the House of Representatives.
SAMUEL WHEELER,
Speaker of the Senate.

February 11, 1828.

AN ACT for the prevention of injuries to the National road, in Ohio.

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That if any person shall purposely and maliciously break, deface, or otherwise injure any of the mile parapet walls, culverts or bridges, or any of the masonry whatsoever of, and belonging to the National road, in this Penalty for injuring mile stones, &c.

of October annually thereafter, select of good, judicious persons, having the qualifications of electors, their apportionment of grand and petit jurors; and shall make a list thereof, and deliver the same to the trustee, or judge of election, whose duty it shall be to return, to said clerk of the court, the poll book of the election to be holden on said second Tuesday of October; and it shall be the duty of said trustee, or judge of election, (as the case may be,) to deliver said list of jurors to the said clerk of the court at the same time he shall return said poll book to said clerk of the court; and said clerk shall put the names of the jurors, so returned, into the jury box, agreeably to the provisions of the second section of the act to which this act is an amendment.

Compensation

Sec. 3. That the sheriff and trustees, or judge of election, (as the case may be,) shall not receive any compensation for the performance of the duties required by the provisions of this act, other than what they are now allowed by law for notifying and attending elections and making returns thereof.

Penalty for neglect of duty

Sec. 4. That if either of the officers, named in this act, shall neglect or refuse to perform any of the duties required by the provisions of this act, according to the true intent and meaning thereof, he shall, on conviction thereof before any court of competent jurisdiction, be fined in a sum not exceeding fifty dollars, which shall be collected as other fines are collected and paid into the county treasury.

Repealing clause

Sec. 5. That so much of the "Act relating to Juries," passed January ninth, eighteen hundred and twenty-four, as comes within the purview of this act, be, and the same is hereby repealed.

Effect

This act shall take effect and be in force from and after the first day of June next.

EDWARD KING,

Speaker of the House of Representatives.

SAMUEL WHEELER,

Speaker of the Senate.

February 11, 1828.

AN ACT authorizing the register of the Virginia Military School Lands to sell and convey certain lots in the town of Mansfield.

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That it shall be the duty of the appraisers, appointed under the act entitled "An act to provide for the sale of lands granted by Congress for the use of schools within the Virginia Military District, and to authorize the lessees of said land to surrender their leases and receive certificates of purchase," to appraise so much of the real estate, situate in the town of Mansfield, as has been sold as the property of the

securities of William W. Cotgreave, late register of the Virginia Military School Lands, by virtue of an execution, and which was bid off by the auditor of state, for the use of the Virginia Military District; and it is hereby made the duty of the register of the Virginia Military School Lands to sell and convey the same; and the register and appraisers shall be governed, in all respects, by the provisions of the above recited act.

EDWARD KING,

Speaker of the House of Representatives.

SAMUEL WHEELER,

Speaker of the Senate.

February 11, 1828.

AN ACT to amend the act entitled "An act authorising and regulating arbitrations."

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That each umpire or arbitrator, to whom any matter of controversy may be submitted, under the provisions of the act to which this is an amendment, shall be entitled to receive, for each day he may serve as such, the sum of one dollar, which shall be taxed as is provided in case of other costs, by the fourth section of the above recited act.

EDWARD KING,

Speaker of the House of Representatives.

SAMUEL WHEELER,

Speaker of the Senate.

February 11, 1828.

AN ACT to provide for the sale of escheated lands in the township of Gallipolis.

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That all real estate, within the township of Gallipolis, ^{Certain act referred to} which has heretofore escheated to the overseers of the poor of said township, under the provisions of the forty-third section of the act entitled "An act for proving and recording wills and codicils, and defining the duties of executors and administrators, the appointment of guardians and the distribution of insolvent estates." passed January the twenty-fifth, eighteen hundred and sixteen, or which has escheated to the state under the provisions of the eighteenth section of the act entitled "An act regulating the ^{Reference to the act of descents, &c.} course of descents and distribution of personal estates," pas-

sed February the eleventh, eighteen hundred and twenty-four, be, and the same is hereby granted to, and vested in the corporation of Gallia Academy; any thing contained in either of the above recited acts to the contrary notwithstanding; to be disposed of as hereinafter provided.

Power of corporation: officers to file bill in chancery

Notice of petition to be given

Proceedings thereon

Corporation to sell lots & report to the court

Court to examine report & order a deed

Claimant, having no notice of sale, how relieved

Sec. 2. That the president and trustees of said corporation are hereby authorized and empowered, whenever they shall ascertain that any real estate in said township has escheated in manner aforesaid, to file a bill in chancery in the court of common pleas of said county of Gallia, describing said real estate as nearly as may be, and the intestate from whom the same escheated, making the tenant in possession, if any there be, a defendant thereto, and praying for an order for the sale of the same; and they shall give public notice of the pendency of said petition, by publishing the same at least three weeks, successively, in some newspaper printed in said county; or in general circulation therein; and the tenant in possession, or any other person claiming title to any part of said real estate, or any interest therein, may appear and defend said suit, agreeably to the rules of proceeding in chancery; and upon the hearing of said petition, if the court shall be satisfied that there is no person entitled, by the laws of this state, to inherit said real estate, they shall order a sale thereof to be made by the president and trustees of said corporation.

Sec. 3. That in all cases where the court shall have ordered a sale of real estate, under the provisions of this act, it shall be lawful for the president and trustees of said corporation to proceed and sell the same at public vendue, in such manner and on such terms as they shall deem most advantageous, and, after making a sale, shall report the same, together with their proceedings therein to the court making said order, at the next term thereof; and the court shall carefully examine such sale and proceedings, and if they approve the same, they shall direct their clerk to make an entry of such approval on the journal, and an order that said corporation make a deed of such real estate to the purchaser; and all deeds, made under the provisions of this act, shall be signed and sealed by the president on behalf of said corporation, and countersigned by the secretary thereof; and any deed, thus made, shall be conclusive evidence of the legality of such sale, and shall vest in the purchaser an absolute title in fee simple to the real estate described in such deed.

Sec. 4. That any person claiming title to any real estate, sold under the provisions of this act, or any interest therein, who had no notice of the pendency of the petition under which the order of sale was made, may at any time, within five years from the time of such sale, file a bill in chancery in the court of common pleas for said county of Gallia, setting forth his title or claim thereto, and make the purchaser, his heirs or

assigns, and also the president and trustees of said corporation, defendants thereto; and if, upon the hearing of said cause, it shall appear to the satisfaction of said court that the complainant has any just and legal claim to said real estate, and such as would entitle him to a recovery in case the same had not been sold under the provisions of this act, they shall thereupon decree the nett proceeds of the purchase money arising from such sale, or so much thereof as they may deem just and equitable, without interest or costs, to be paid to the complainant, by the said corporation, out of the permanent fund by this act created or out of any other funds belonging to said corporation: *Provided always*, That any infant, feme covert, or person non compos mentis may bring suit as aforesaid, at any time within five years next after such disability shall be removed. Proceedings thereon

Sec. 5. That the nett proceeds of all sales, under the provisions of this act, shall constitute a permanent fund for the encouragement and support of education in said Academy, the annual income of which only shall be appropriated to that object; and it is hereby made the duty of said president and trustees to invest the same in such manner as shall most effectually promote the object for which the grant is made. Funds, how appropriated

EDWARD KING,
Speaker of the House of Representatives.

SAMUEL WHEELER,
Speaker of the Senate.

February 8, 1828.

AN ACT to incorporate the Muskingum Navigation Company.

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio*, That James Taylor, John Hamm, Appleton Downer and John Dillon, of Muskingum county; Alexander McConnel, William Dawes and Luther D. Barker, of Morgan county; John Mills, David Putnam, Joseph Holden and John P. Mayberry, of Washington county; James Renfrew and Adam Johnson, of Coshocton county, be, and they are hereby appointed under a direction of a majority of whom subscriptions may be received to the capital stock of the Muskingum Navigation Company hereby incorporated; and they or a majority of them, may cause books to be opened at such times and places as they may direct, for the purpose of receiving subscriptions to the capital stock of said company, after having given such notice of the times and places of opening the same as they may deem proper, and at the first opening of said books, they shall be kept open for at least ten successive days; from ten o'clock A. M. until two o'clock Books for subscription to capital stock to be opened

Vacancies in com'r, how filled

Vacancies in the office of commissioner how filled

P. M. and if at the expiration of the period for which they are first opened, such a subscription to the capital stock of said company, as is necessary to its incorporation, shall not have been obtained, the said commissioners or a majority of them, may cause the said books to be opened, from time to time, after the expiration of the period for which they are first opened, until the first day of February, eighteen hundred and thirty, or until the sum necessary for the incorporation of the company shall be subscribed, if sooner subscribed; and if any of said commissioners shall die, resign or refuse to act during the continuance of the duties devolved upon them by this act, another may be appointed in his stead by the remaining commissioners or a majority of them.

Amount of capital stock \$400,000 shares \$100

Corporation to go into operation when 3000 shares of stock is subscribed

They may hold property sue, &c

Provision if more than 3000 shares shall be subscribed

Ten dollars to be paid on each share at the time of subscribing

Sec. 2. That the capital stock of the said Muskingum Navigation Company shall be four hundred thousand dollars, in shares of one hundred dollars each, of which one thousand shares shall be reserved for subscription by the state of Ohio, until the fourth day of July, eighteen hundred and thirty-one, and the remaining three thousand shares may be subscribed for by any incorporation or individuals; and that as soon as three thousand shares of the said capital stock shall be subscribed, the subscribers of the said stock, their successors and assigns shall be, and they are hereby declared to be incorporated into a company by the name and style of "The Muskingum Navigation Company," and by that name shall be capable in law of purchasing, holding, selling, leasing and conveying estates real, personal and mixed so far as shall be necessary for the purposes hereinafter mentioned and no farther, and shall have perpetual succession, and by such corporate name may sue and be sued, and may have and use a common seal, which they shall have power to alter and renew at pleasure; and shall have, enjoy and may exercise all the powers, rights and privileges which other corporate bodies may lawfully do, for the purposes mentioned in this act.

Sec. 3. That if more than three thousand shares shall be subscribed to the capital stock of said company, not reserved to the state of Ohio, the said commissioners or a majority of them, shall reduce the subscription to three thousand shares by striking off from the largest number of shares in succession, until the subscriptions are reduced to three thousand shares, or all the subscriptions to one share each, and if there be still an excess, then lots are to be drawn by said commissioners to determine who are to be excluded.

Sec. 4. That upon every such subscription there shall be paid at the time of subscribing to the said commissioners or to their agent or agents, appointed to receive such subscriptions, the sum of ten dollars on every share subscribed, and the residue thereof at such times as may be required by the president and directors of said company: *Provided*, That not more than twenty-five dollars on each share of the said

subscription be demanded in any one year from the commencement of the work, nor any payment demanded until at least sixty days public notice shall have been given by the said president and directors, by advertisement published in at least three newspapers published in the state of Ohio, and one newspaper published in the principal city of each state, in which two hundred shares of the capital stock may have been subscribed; and if any subscriber shall fail or neglect to pay any instalment or part of such subscription thus demanded, after the time the same shall become due and payable, the said instalment or part of such subscription shall be charged with interest at the rate of one per cent. per month from the time it may become due and payable until the same is paid; and if any subscriber shall fail or neglect to pay any instalment or part of such subscription, with such interest that may legally be charged thereon, for the space of sixty days next after the same shall be due and payable, the stock on which it is demanded shall be forfeited to the company, and may be sold by the president and directors for the benefit of the company; but the president and directors may remit such interest and forfeiture on such terms as they may deem proper.

Penalty on failure to pay instalments

Sec. 5. That if the subscription, herein made necessary to the incorporation of the said company, shall not be obtained before the first day of February, eighteen hundred and thirty, this act, and the subscriptions under it, shall be null and void; and the said commissioners, after discharging the expenses of opening the books, shall return the residue of the money paid in upon such subscriptions, upon request, to the several subscribers, in proper proportions to the sums respectively paid in by them.

When this act shall be null

Sec. 6. That at the expiration of the time for which the books are first opened, if three thousand shares of said capital stock shall have been subscribed, or if not, as soon thereafter as the same shall be subscribed, if before the first day of February, eighteen hundred and thirty, the said commissioners, or a majority of them, shall call a general meeting of the subscribers at such time and place as they may appoint, and shall give at least forty days public notice thereof, by advertisement in at least three newspapers published in the state of Ohio, and one newspaper published in the principal city of each state in which two hundred shares of the capital stock of said company shall have been subscribed; and at such meeting the said commissioners shall lay the subscription books before the subscribers then and there present, and thereupon the said subscribers, or a majority of them, shall elect seven directors, by ballot, to manage the affairs of said company; and these seven directors, or a majority of them, shall have the power of electing a president of said company,

When 3000 shares are subscribed a meeting of the stockholders to be called

Seven directors to be elected, &c.

either from amongst the directors or other stockholders of said company, and of allowing him such compensation for his services as they may deem proper; and that in said election, and on all other occasions wherein a vote of the stockholders of said company is to be taken, each stockholder shall be allowed one vote for every share owned by him, and every stockholder may depute any other person to vote and act for him as his proxy; and the said commissioners, or any three of them, shall be judges of the said first election of directors.

Proxies may vote

Annual election, when to be holden

Vacancies to be filled

General meetings when to be held

Special meetings may be called

Proceedings at special meetings

Proceedings at the regular meetings

Sec. 7. That to continue the succession of the president and directors of said company, seven directors shall be chosen annually on the second Monday of January in every year, in the town of Zanesville, by the stockholders of said company, and that the state of Ohio may appoint two additional directors of said company for the one thousand shares of stock of said company by said state owned at the time of such election, but shall not be permitted to vote upon said stock in the election of directors, by the stockholders in general meeting; and if any vacancy shall occur by death, resignation or refusal to act in the office of any president or director, before the year for which he was elected has expired, a person to fill such vacant place, for the residue of the year, may be appointed by the president and directors of the said company, or a majority of them, and that the president and directors of the said company shall hold and exercise their offices until a new election of president and directors; and that all elections which are by this act, or the by-laws of said company, to be made on a particular day, or at a particular time, if not made on such day or at such time, may be made at any time within thirty days thereafter.

Sec. 8. That a general meeting of the stockholders of said company shall be held annually, at the time and place appointed for the election of the president and directors of said company, that a meeting may be called at any time during the interval between said annual meetings, by the president and directors or a majority of them, or by the stockholders owning at least one half of the whole stock subscribed, upon giving thirty days public notice of the time and place of holding the same, and when any such meetings are called by the stockholders, such notice shall specify the particular object of the call; and if at any such called meetings, a majority (in value) of the stockholders of said company are not present in person or by proxy, such meetings shall be adjourned from day to day, without transacting any business, for any time not exceeding three days, and if within said three days stockholders having a majority (in value) of the stock subscribed do not attend, such meeting shall be dissolved.

Sec. 9. That at the regular annual meetings of the stockholders of said company, it shall be the duty of the president and directors in office for the preceding year, to exhibit a

clear and distinct statement of the affairs of the company, and at any called meetings of the stockholders, a majority of those present may require similar statements from the president and directors, whose duty it shall be to furnish them when thus required; and that at all general meetings of the stockholders, a majority (in value) of all the stockholders in said company, may remove from office any president or any of the directors of said company, and may appoint others in their stead.

Sec. 10. That every president and director of said company, before he acts as such, shall swear or affirm, as the case may be, that he will well and truly discharge the duties of his office to the best of his skill and judgment. ^{Officers to take an oath}

Sec. 11. That if any of the shares of said capital stock, hereinbefore reserved to the said state of Ohio, shall not be subscribed by said state, during the time for which such stock is reserved, as aforesaid, the president and directors of said company, or a majority of them, shall have power to open books and to receive subscriptions to the capital stock of said company, which may thus remain unsubscribed for, or to sell or dispose of such unsubscribed stock for the benefit of the company, for any sum not under its par value, and the purchasers or subscribers of such stock shall have all the rights and privileges of original subscribers, and shall be subject to the same regulations. ^{Disposition of shares reserved to the state, if not accepted}

Sec. 12. That the president and directors, or a majority of them, may appoint all such officers, engineers, surveyors, agents or servants whatsoever, as they may deem necessary for the transaction of the business of the company, and may remove any of them at their pleasure; that they or a majority of them, shall have power to pass all by-laws which they may deem necessary or proper for exercising all the powers vested in the company hereby incorporated, and for carrying the objects of this act into effect: *Provided only*, That such by-laws shall not be contrary to the laws of the United States, or the laws of this state. ^{The board to appoint officers &c}

Sec. 13. That if the capital stock of said company shall be deemed insufficient for the purposes of this act, it shall and may be lawful for the president and directors of said company, or a majority of them, from time to time to increase the said capital stock, by the addition of as many shares as they may deem necessary, for which they may, at their option, cause subscriptions to be received in the manner prescribed by them, or may sell the same for the benefit of the company for any sum not under their par value. ^{Additional shares may be created if necessary}

Sec. 14. That the said corporation be, and they are hereby authorized to make and construct, and forever maintain all necessary dams, locks, and side-cuts, toll houses and other necessary appendages, to improve the navigation of the Muskingum river, from its mouth (at Marietta, on the Ohio) to a ^{Objects of the incorporation}

Proviso

Lands and materials may be taken for this work

Provision as to infants, &c

Assessment of damages

point or station where the contemplated side-cut from the Ohio Canal shall be locked down into the Muskingum river, at or near the town of Dresden, agreeably to a survey and examination of said river, made in accordance with the resolution of the last General Assembly of the state of Ohio, and a report made thereto of the surveys and levels, by the canal commissioners, on the seventeenth of January, eighteen hundred and twenty-eight; and to use all the surplus water of the river for the purposes of mills and other hydraulic works, at the said dams or side-cuts: *Provided*, That so much of said river as includes the falls in the vicinity of Big Salt creek, usually known by the name of Duncan's falls, and Deadman's ripple, now owned by James Taylor, who is authorized to erect a dam across the said river at or near said falls, and to construct a lock thereat, and a canal from the western termination of said dam, to intersect the said river at the mouth of Duncan's run, and to construct a good and sufficient lock or locks at the termination of said canal, at any time within seven years, and so much of said river as includes the falls thereof at the town of Zanesville, to construct a canal around which a company was formerly incorporated by the name of "The Zanesville Canal and Manufacturing Company" are not included in the provisions of this act, except as hereinafter provided; that for the purpose of assuring to the said corporation all the lands, real estate and materials requisite for constructing and maintaining said dams, locks, side-cuts and the works constructed therewith, incident and necessary to the improvement of the navigation of the river as aforesaid, whenever the said lands or materials shall not be obtained by voluntary donation or fair purchase, it shall be lawful for said corporation, by any of their officers, and by each and every agent or agents, superintendent or engineer by them employed, to enter upon, take possession of, and use all such lands and real estate as shall be necessary for the purpose aforesaid, and also to enter upon and take all necessary materials for the construction of said dams and locks, adjoining or near said dams and locks, on whose lands soever the same may be, doing thereby no unnecessary damage, they satisfying and paying all damages which may be occasioned thereby, to any person or persons, corporation or corporations, in the manner hereinafter provided.

Sec. 15. That when the land, or other property or estate belonging to any infant, feme covert or person non compos mentis shall be taken and appropriated for the use and purposes of said improvements, the husband of such feme-covert and the guardian of such infant or person non compos mentis, respectively, may claim damages therefor agreeably to the provisions of this act.

Sec. 16. That when any lands or materials shall be taken and appropriated by said corporation for the construction of

said dams, locks or side-cuts, or any work or device appertaining thereto, and the same shall not be given or granted to said corporation, and the proprietor or proprietors do not agree with said corporation as to the amount of damages or compensation which ought to be allowed and paid therefor, and shall not mutually agree on some person or persons to appraise the same, the damages shall be estimated and assessed by three commissioners, to be appointed by joint resolution of the General Assembly, for that purpose, (vacancies, if any happen in the recess of the Legislature, to be filled by the Governor, to expire at the end of the next session thereafter,) in manner following: Whenever said corporation shall have entered upon, or taken possession of any land or materials for the construction of said dams, locks or side-cuts, any person or persons, corporation or corporations injured thereby, may at any time, within six months thereafter, file his, her or their claim for damages, in writing, particularly describing the premises, with some one of said commissioners or with the clerk of the court of common pleas for the county in which the damages complained of are sustained; and said commissioners, or any two of them, having been first duly sworn to a faithful and impartial discharge of their duties, within a reasonable time thereafter, having given previous notice to all parties interested of the time and of the claims to be examined, by publishing an advertisement thereof, three successive weeks in some newspaper printed in said county, and in general circulation therein, shall meet and view the premises or materials so used or appropriated by said corporation for the purposes aforesaid; and after hearing the parties in interest, or such of them as desire to be heard, shall, according to their best skill and judgment, estimate all such damages as they shall think any person or persons, corporation or corporations have sustained, over and above the benefit and advantage which said commissioners shall judge may accrue to such person or persons, corporation or corporations, by the construction of said dams, locks and side-cuts, or by taking materials therefor; and said commissioners or any two of them, shall make out a report, in writing, and as soon as may be, file the same with the clerk of the court of common pleas for said county, and the same may be made a rule of said court, at the next succeeding or any subsequent term thereof, as in the case of awards: *Provided, nevertheless*, That the courts, in their discretion, on good cause shewn, may order a re-appraisement of such damages, materials, &c.; and the report of said commissioners, when affirmed and recorded, shall forever be a bar to any action commenced or to be commenced for damages against said corporation, on account of the injury for which such damages were awarded; and if the party filing a claim for damages, as aforesaid, shall fail to obtain damages in his favor, such

when the parties cannot agree

Three com'rs to be appointed by the legislature

Claims for damages to be filed

Duty of commissioners after being sworn

Report to be made and filed with the clerk of court

Provided

Further actions barred

Costs be-
charged and
paid

party shall be liable for all costs arising from such application, and the court may enter judgment and issue execution therefor, as in other cases; and on all judgments against said corporation, for damages assessed as aforesaid, or for the costs thereof, execution may issue in the common form, mutatis mutandis, and may be levied upon the goods and chattels, lands and tenements of said corporation, and said commissioners shall be allowed two dollars a day each for their services, under the provisions of this act, to be paid by said corporation, except as hereinbefore provided.

Rates of toll

Sec. 17. That the president and directors be, and they are hereby authorized to demand and receive, at each lock, the following tolls, to wit: On flour, whisky, all kinds of grain, and all other agricultural productions, (not otherwise provided for) salted provisions, domestic animals. pot and pearl ashes, and on salt, one cent and five mills per ton, per mile; on merchandize, including dry goods, groceries, hard and hollow ware, wrought iron and steel, four cents per ton, per mile; on mineral coal, five mills per ton, per mile; on gypsum, brick and lime, one cent per ton, per mile; on staves and heading, stone for building, stone for lime, for monuments or tombstones, sand and grind stones, five mills per ton, per mile; on iron ore, one cent and five mills per ton, on pig metal, two cents per ton, per mile; on boards and plank, scantling and other sawed stuff, (reduced to inch board, superficial measure) one cent per thousand feet, per mile; on timber squared or round, for any distance, one cent per hundred cubic feet, per mile; on shingles, for any distance, two mills per thousand, per mile; on posts and rails for fencing, for any distance, three cents per thousand, per mile; on wood for fuel, for any distance, one cent per cord, per mile; on boats, made and used chiefly for the transportation of property, two cents each, for each mile of their passage; on boats made and used chiefly for the transportation of persons, twelve cents on each boat, for each mile of their passage; on all articles not enumerated, for any distance, three cents per ton, per mile; but no toll shall be charged thereon unless the said water craft pass through one of the locks of said company.

Company
stock deemed
personal prop-
erty and
transferable

Sec. 18. That the stock of said corporation shall be deemed and considered personal property; and any share or shares of any stockholder shall be transferred in the manner the president and directors may from time to time prescribe: *Provided*, That any debt due to the company, by any stockholder or stockholders, shall be a lien upon all stock owned by such stockholder or stockholders, until such debt is paid.

Disposition of
tolls, &c

Sec. 19 That for and in consideration of the expenses the said corporation will be at in constructing said dams, locks and side cuts, and in keeping the same in repair, the dams, locks and side cuts as aforesaid, together with all tolls, rents and profits arising therefrom, shall be, and the same are

Hereby vested in the said stockholders, their heirs and assigns forever, as tenants in common, in proportion to their respective shares; and the same shall be considered and taken to be a public highway, free for the transportation of all goods, commodities and produce, on payment of all tolls as provided by this act, and shall be exempt from the payment of any tax, imposition or assessment whatever: *Provided*, That the said corporation may at any time surrender their charter to the state of Ohio, on such terms as may be agreed on by the parties, two-thirds of the stockholders (in value) assenting thereto: *Provided also*, That the state shall have power, at any time after the expiration of thirty years from the time of the completion of said work, to purchase and hold the same, for the use of the state, by paying to said corporation therefor the amount expended by said Company in locating and constructing the same, together with fifteen per cent. thereon.

River and canal to be public highway

Proviso

Sec. 20. That the said president and directors shall keep a true account of the cost and expenditure of the said dams, locks, side cuts and appendages; and on the second Monday of January in each year, have the same made up and the balance of profits struck and divided among the stockholders, and report the same to the General Assembly of the state of Ohio; and if it shall appear by the said return to be made under the oath of the president and a majority of directors, that the profits so divided do not amount to fifteen per cent. on the capital expended, the said corporation shall be authorized to add to the tolls for the succeeding years, if they deem it expedient so to do, until the nett profits after deducting for all expenses, repairs and necessary improvements, shall amount to fifteen per cent. per year; but should it appear by the said returns that the nett profits as aforesaid exceed fifteen per cent. per year, after the expenses, repairs and necessary improvements are made, the legislature reserve to themselves the right so to reduce the amount of tolls as that the profits to be divided shall not exceed fifteen per cent. per year.

Account to be kept of cost of the works

Provision if dividends do not amount to 15 per cent

Sec. 21. That the said corporation, be, and they are hereby authorized in the construction of said dams, locks and side cuts, to select such sites as to them may seem the most eligible therefor, and as near as may be conformable to the surveys, levels and examinations made under the direction of the Canal Commissioners: *Provided*, That the locks shall not be less in width than thirty-four feet and one hundred and fifty feet long, and that the dams shall never be erected in said river of a less height than to produce a slack water navigation, between each lock, of four feet of water in depth, in the lowest stages of water.

Sites of dams, &c. to be selected

Proviso

Sec. 22. That if the president and directors shall not proceed to carry on said work within three years from the passage of this act, and shall not complete the navigation as

The work, when to be finished, &c.

aforesaid, in seven years, according to the true intent and meaning of this act, then, and in either of those cases, all and singular the rights, privileges, liberties and franchises, hereby granted to said company, shall revert to the state of Ohio.

Provision if the company shall permit the dams, &c. to be out of repair

Sec. 23. That the president and directors shall be obliged to keep in perfect repair and good condition any dam or dams, lock or locks, side-cut or side-cuts, connected with such improvements; and if the said president and directors shall negligently or wilfully permit either of the said dams, locks or side-cuts to remain out of repair, so as to obstruct the navigation of the said river, that then and in that case the General Assembly of the state of Ohio may authorize any individual or body corporate to enter into possession of the said works, to make the necessary repairs thereon, to remain in possession, to take the profits thereof until the money expended in such repairs and ten per cent. thereon, with legal interest, shall be refunded.

Directors to be stockholders

Sec. 24. That the president and all the directors of said company shall be stockholders at the time of their election or appointment, and any one ceasing to be a stockholder shall cease to be president or director, as the case may be.

Company to have the benefit of Ohio Canal laws

Sec. 25. That the said corporation, upon complying with the provisions of this act, shall be entitled to the benefit of all laws which are or shall be in force for the collection of their tolls, or for the protection of any canal constructed by this state, so far as such law or laws shall be necessary to ensure the collection of tolls, or for the protection of the dams, locks, side-cuts or other works which the said company may construct, in order to carry into effect the provisions of this act.

W. J. Taylor fails to erect a dam at Duncan's falls, the company may

Sec. 26. That if the before mentioned James Taylor, his heirs and assigns, should fail to erect a dam across said river, at or near Duncan's falls, and to construct a lock thereat and to cut a canal as aforesaid, according to the provisions of the act entitled "An act to authorize James Taylor to erect a dam across the Muskingum river," within the seven years required by that act, then and in that case the Muskingum Navigation Company, herein and hereby incorporated, shall have power, and they are hereby authorized to erect said dam, and to construct said lock or locks, to cut said canal and construct said lock or locks, according to the provisions of this act; and in case the beforementioned Zanesville Canal and Manufacturing Company should fail to erect a dam across the Muskingum river, at or near the falls thereof at the town of Zanesville, of the height and structure required by the provisions of this act, and to finish the canal together with the lock or locks, at the foot thereof, of the same dimensions and capacity mentioned in the report of the Canal Commissioners aforesaid, for the period of seven years from the taking effect of this act, to which period of time they are hereby

If the company incorporated to erect a dam at Zanesville fails, navigation company may

authorized so to do, then and in such case the Muskingum Navigation Company shall have power, and they are hereby authorized to erect and construct the same according to the provisions of this act.

Sec. 27. That if the said Zanesville Canal and Manufacturing Company should, within the said term of seven years the Zanesville canal and manufacturing comp'y shall finish the dam, &c. in 7 years Provision if the said company should fail within the time herein granted the Muskingum navigation company may take possession to enter upon and take possession of the same, and to finish the work, and to take the rents and profits thereof until the money expended, with ten per cent and legal interest thereon, shall be refunded; and if the said Zanesville Canal and Manufacturing Company shall construct the said dam, cut the canal and erect said lock or locks in any manner different from the provisions of this act, or, having constructed them, shall suffer the same to get out of repair so as to obstruct the navigation of said river, or shall refuse or neglect to open said lock or locks as before provided, they shall be liable to any person or persons sustaining injury thereby.

Sec. 23. That this act shall not be so construed as to vest No banking powers given any banking powers, or any other powers, in said corporation, not necessary to promote the objects herein specified; but the same is hereby declared to be a public act, and shall be favorably construed to effect the purposes thereby intended and provided for; and the copies thereof, printed by authority of the state, shall be evidence thereof. Authentication

EDWARD KING,
Speaker of the House of Representatives.
SAMUEL WHEELER,
Speaker of the Senate.

February 11, 1828.

AN ACT to amend the act defining the duties of Executors and Administrators.

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That in all sales of real property hereafter to be made by executors or administrators, for the discharge of the debts Four weeks notice of sales

of real estate to be given of the deceased as provided for by the act to which this is an amendment, the executor or administrator to whom an order of sale shall be directed, shall cause notice to be given of the time and place of sale, by advertising the same at least four weeks successively in some newspaper printed in the county, where the lands may lie, or in case no newspaper be printed within such county, then by advertising the same in at least five public places in the county, four weeks before the day of sale, any thing in the twentieth section of the act to which this is an amendment to the contrary notwithstanding; and if the court to which any order for the sale of such real estate may be returned sold, after having carefully examined the proceedings of such executor or administrator, shall be satisfied that the sale has in all respects been legally made, they shall direct their clerk to make an entry on the minutes, that the court are satisfied of the legality of such sale, and an order that the executor or administrator make to the purchaser a deed for such lands and tenements, and such deed so executed shall be received in all courts as prima facie evidence that the executors or administrators have in all respects observed the directions and complied with the requisitions of the law in making sale thereof.

Duty of court on return of sale of real estate

Proceedings thereon

Proceedings when executor or administrator dies before sale

Sec. 2. That if at any time after the filing of a petition for the sale of real estate as aforesaid, the executor or administrators making such application, shall die before the sale and conveyance of such real estate, it shall be lawful for the executor of the deceased executor, or for the administrator *de bonis non* of the first testator or intestate, as the case may be, to proceed with such sale and to convey to the purchaser or purchasers in the same manner that the original executor or administrator might or could have done; and the court may, if they deem it necessary, or at the request of any creditor or heir of the decedent, require such administrator *de bonis non* either at the time of his appointment or before confirming any sale of land made by him in pursuance of this section, to give security for the purpose, and according to the provisions of the twenty-first section of the act to which this is an amendment.

On filing petition for sale of lands, the widow, if any, to be made a party

Sec. 3. That when any executor or administrator shall apply to the court, by petition, for authority to sell the whole, or any part of the real estate of their testator or intestate, as provided in the nineteenth section of the said act to which this is an amendment, it shall be their duty, in case there be any widow who may be entitled to dower in the lands described in said petition, to make her a defendant thereto; and the court shall make an order directing the persons appointed to appraise said lands, to apart and set off to said widow her dower therein: and in case such lands shall be situated in two or more counties, or two or more tracts, it shall be law-

ful for said appraisers to set off said dower in one or more counties, or in one or more tracts, as they may think most equitable.

Sec. 4. That when any lands, tenements or hereditaments have heretofore been, or shall hereafter be devised by any last will and testament to the executors therein named, or any of them, to be sold or conveyed for the payment of debts or legacies, or where such lands, tenements or hereditaments shall be thereby ordered to be sold or conveyed for the same or any other purpose, by such executors, or any of them, it shall not be necessary for said executor or executors, who take upon themselves the burden of execution, to apply to the court of common pleas to sell or convey the same, but the same shall in all things be disposed of according to the devise of the testator or testatrix: *Provided, however,* That nothing in this section contained shall be so construed as to extend the time within which such executor or executors shall be bound to settle with the court, nor to deprive any creditor or creditors, legatee or legatees of such testator or testatrix, of any right of action which they otherwise might have had against such executor or executors, or against the heirs of such testator or testatrix.

Sec. 5. That the court when they grant probate of any will, may at their discretion cause the executor or executors named in said will, to give bond and security in the same manner as is required of administrators by the fifth section of the act to which this is an amendment; and in case of their refusal, so that no one of the executors named in said will, is willing to give the security required, the court shall thereupon grant letters of administration with the will annexed, in the same manner as if such testator had died intestate, as is provided by the fourteenth section of the act entitled "An act relating to wills."

Sec. 6. That when a citation shall issue against, and be served upon an executor, administrator or guardian, to shew cause why settlement has not been made of his or her account as such executor, administrator or guardian, and he or she shall neglect or refuse to appear at the term of the court to which such citation is returnable, or, having appeared, shall fail to shew cause, to the satisfaction of the court, why settlement has not been made, it shall be competent for such court to render judgment against such executor, administrator or guardian, for the costs which may have accrued upon such citation.

Sec. 7. That at any special session of said court it shall be the duty of the judges, upon application, to appoint guardians for minors, in the same manner it is now done at the regular terms of said court.

Sec. 8. That in all cases where the judges of the court of common pleas shall hereafter convene for the purpose of

When lands are devised to be sold for the payment of debts, &c. executors may proceed with out orders from court

Proceedings on citation of executor, administrator or guardian, to shew cause for not settling

Proceedings on citation of executor, administrator or guardian, to shew cause for not settling

Guardians may be appointed at special session of the court

Ass'te judges' compensation

for granting letters of administration granting letters of administration or taking probate of wills, or for the appointment of guardians, at any special session, and there shall be more than one application for that purpose, the said judges shall be allowed and paid, for their services, the sum of two dollars per day each, to be paid in equal proportions by each applicant, out of the estate of the deceased, or by the guardian or guardians, as the case may be.

Provision in favor of widows, &c.

Sec. 9. That the seventh section of the act to which this is amendatory, so far as the same relates to the bedding allowed to be retained by the widow, shall be so construed as to allow the widow to retain, in addition to one bed and bedding, such other beds and bedding as are or may by law be exempt from execution, without being obliged to account therefor.

This act shall take effect and be in force from and after its passage.

EDWARD KING,

Speaker of the House of Representatives.

SAMUEL WHEELER,

Speaker of the Senate.

February 11, 1828.

AN ACT declaring the meaning of the act entitled "An act regulating the navigation of the Muskingum river, and its main branches."

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That the provisions of the second section of the act entitled "An act regulating the navigation of the Muskingum river, and its main branches," passed February the ninth, eighteen hundred and thirteen, are hereby declared to extend to the navigation of the Killbuck creek, from its junction with the White-woman's creek, up to the forks, in section number nine, township number fifteen, of range number thirteen, as declared in the first section of said act; and any person or persons, who shall hereafter obstruct the navigation of said stream within the points aforesaid, shall be subject to the penalties specified in the said section of the act above recited.

EDWARD KING,

Speaker of the House of Representatives.

SAMUEL WHEELER,

Speaker of the Senate.

February 11, 1828.

AN ACT to amend "An act to abolish the office of county collector, and defining the duties of county treasurer."

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That when the successor in office of any county treasurer shall receive any moneys from his predecessor, or from the executors, administrators or other legal representatives of such predecessor, under the sixth section of the act to which this is an amendment, such successor shall not charge or be allowed any per centage upon the moneys so by him received as aforesaid. Regulating co. treasurers in the Western Reserve

Sec. 2. That the county treasurers of the several counties in the Connecticut Western Reserve, when the taxable persons in any township in the proper county shall not exceed one hundred and fifty in number, shall not be obliged to attend in the months of August and September, for the collection of taxes in such township, by himself or deputy, more than one day; any thing in the act to which this is an amendment to the contrary notwithstanding. Regulating the duties of co. treasurers in the Western Reserve

EDWARD KING,
Speaker of the House of Representatives.

SAMUEL WHEELER,
Speaker of the Senate.

February 11, 1828.

AN ACT to provide for the sale of the lands appropriated for the use of schools within the United States' Military District.

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That so soon as the appraisements shall have been made of the United States' Military School Lands, and lists of such appraisements delivered to the county treasurers, in pursuance of the provisions of the seventh section of the act, passed the thirty-first day of December, in the year eighteen hundred and twenty-seven, entitled "An act to amend the act, entitled an act to provide for obtaining the consent of the inhabitants of the United States' Military District, to the sale of lands appropriated for the support of schools within said district, and to authorize the lessees of said lands to surrender their leases and receive certificates of purchase, and for other purposes," it shall be the duty of the county auditor of each county in which any of said lands are situated, to give ninety days notice in some newspaper in general circulation within such county, also, in some newspaper printed in the town of Columbus, in this state, that a sale of said lands will be held at the court house in such county, on a day to be Provisions of former law referred to
County auditor to give ninety days notice of the time and place of sale

Manner of
conducting
sales

Installments
regulated

First instal-
ment not paid
when bid off
land to be
again offered

Lands not
sold at public
sale may be
at private sale

Proviso

Auditor to
give purchas-
er a certificate
of purchase

Form of cer-
tificate

named in said notice, and such auditor shall by himself or deputy, attend at the court house in his county, on the day named in said notice, and then and there offer for sale, separately, each half quarter section of said lands situate in his county, and which have not been leased, and to sell the same to the highest bidder, but no bid shall be received which is less than the appraised value thereof, and said auditor shall continue said sale from day to day, until each half quarter section of such lands be sold or offered for sale; and the purchaser shall pay one sixth part of the purchase money at the time of such sale, and one sixth part thereof, annually, thereafter, without interest, until the whole be paid, but if any instalment be not punctually paid when due, interest shall be charged thereon from the date of the purchase, and if the purchaser shall fail at the time of the sale, to pay the one sixth part of the amount of his bid, he shall forfeit his right to the land so struck off to him, and the same shall be again offered for sale as if no bid had been made thereon, and the bid of the person having failed as aforesaid, shall not again be received for the same or any other parcel of said lands, nor shall such delinquent bidder be permitted to purchase at private sale of the auditor, the tract of land for which he shall have failed to make payment as aforesaid.

Sec. 2. That the said county auditors shall sell at private sale any tract of said lands which shall have been offered for sale as herein before provided and not sold for want of buyers, to any person or persons who may wish to purchase (except delinquent bidders as herein before provided) at any price not less than the appraised value thereof: *Provided*, That if two or more persons shall apply for the purchase of the same parcel of land at the same time, the auditor shall immediately set the same for sale and shall sell the same to the highest bidder; and for lands purchased under the provisions of this section, payment shall be made in the same manner and subject to the same conditions as are prescribed in the preceding section.

Sec. 3. That the county auditor at the time of making any sale under the provisions of this act, and upon the payment of one sixth part of the purchase money as aforesaid, shall give to the purchaser a certificate of purchase containing a description of the land, the quantity thereof, the amount for which the same was sold, the date of the sale and the name and place of residence of the purchaser, and upon making full payment of the purchase money, the purchaser, his heirs or assigns shall receive from said auditor or his successor in office, a final certificate and a deed of conveyance from the Governor, in the manner prescribed in the ninth section of the act passed January nineteenth, in the year eighteen hundred and twenty-seven, entitled "An act to provide for

obtaining the consent of the inhabitants of the United States Military District, to the sale of the lands appropriated for the support of schools within said district, and to authorize the lessees of said lands to surrender their leases and receive certificates of purchase."

Sec. 4. That where any of said lands have been, or now ^{Leased lands} are held by temporary leases, and the holders of such leases ^{to be sold on} have or shall hereafter suffer them to expire without surren- ^{the expira-} ^{tion of the} ^{lease} dering them and receiving certificates of purchase, in conformity with the provisions of the above cited acts, such lands shall be sold in the same manner as the unleased lands are directed to be sold by the first and second sections of this act.

Sec. 5. That all payments for lands sold under the pro- ^{County trea-} ^{visions of this act, shall be made to the treasurer of the coun-} ^{ty in which the land is situated, excepting the county of Lick-} ^{ing, in which payment shall be made to Israel Dille, who} ^{was heretofore appointed to perform the duties required of} ^{the treasurer of that county respecting said lands; and the} ^{person so making payment shall take a receipt therefor,} ^{which he shall forthwith deposite with the county auditor,} ^{who shall charge the treasurer or other person receiving such} ^{payment with the amount thereof, in a book to be provided} ^{for that purpose, and shall give to the person delivering the} ^{same, a certificate that such a receipt has been deposited} ^{with him, stating therein the date and amount of such receipt} ^{and the name of the person to whom the same was given.} ^{County trea-} ^{surer to re-} ^{ceive pur-} ^{chase money}

Sec. 6. That it shall be the duty of the county treasurer ^{County trea-} ^{or other person appointed to receive payment instead of the} ^{treasurer, to pay over to the state treasurer all moneys which} ^{he shall receive by virtue of this act, at the same time and} ^{in the same manner as he is directed to do by the four-} ^{teenth section of the act above cited, passed January nine-} ^{teenth, in the year eighteen hundred and twenty-seven.} ^{surer to pay} ^{over to state} ^{treasurer}

Sec. 7. That each of said county auditors shall procure a ^{County au-} ^{book in which he shall make an entry of all sales by him made,} ^{under the provisions of this act, which entry shall contain a} ^{description of the tract sold, the quantity, the price for which} ^{the same shall be sold, the date of the sale and the name and} ^{residence of the purchaser; and shall, annually, on the first} ^{day of January, transmit to the auditor of state a certified} ^{transcript of all such entries by him made in the preceding} ^{year, and shall forward, at the same time, a statement of the} ^{amount of money with which he has charged the treasurer of} ^{his county or other person appointed instead of such treas-} ^{urer, within that time on account of such sales.} ^{auditor to keep} ^{a book of} ^{sales, &c}

Sec. 8. That if any purchaser as aforesaid, shall suffer any ^{Forfeited} ^{instalment to remain unpaid for one year after the same be-} ^{comes due, the tract of land, for which the same be due,} ^{land may be} ^{again sold}

Notice to be given

Conditions of sale

shall be forfeited, and shall be again sold in the manner prescribed in the first section of this act, after notice given of the time and place of sale by advertisement published four weeks successively in some newspaper having general circulation in the county where such land is situated, but such tract shall not be sold for a less sum than is due thereon, including the expenses of such sale, and if such tract shall sell for more than is due thereon, including the expenses of such sale, the surplus shall belong to the original purchaser, his assignee or legal representatives, and when collected shall be paid over on the order of the auditor; and if such forfeited tract be not sold as above directed at public sale, for want of buyers, the same may be sold at private sale in the manner directed in the second section of this act.

Treasurers compensation

Auditors compensation

Sec. 9. That the county treasurer, or other person appointed in his stead, shall be allowed to retain, as a compensation for his services, three per cent. on all moneys by him received, under the provisions of this act; and the county auditor shall be allowed for his services the following compensation: for each certificate of purchase and final certificate by him issued, fifty cents, to be paid by the purchaser; for advertising and selling a forfeited tract, under the provisions of the eighth section of this act, the sum of two dollars, to be paid by the purchaser as in said section is prescribed; for making the entries of sale, ten cents for each hundred words contained therein; for making the transcript of such entries, and the statement which he is directed to forward to the auditor of state, for each hundred words, eight cents; which sums for making entries, transcripts and statements, together with the printer's charges for advertising, shall be paid by the treasurer of the county in which the expense is incurred, out of any moneys in his hands, accruing from the sales or rents of said lands, and the amount so paid shall be allowed to such treasurer in his settlement with the auditor of state.

Tenant to be allowed for extra improvements

Extra improvements how ascertained

Sec. 10. That where the occupant of any of said lands, by virtue of a temporary lease, has made greater improvements thereon than the covenants of such lease required him to make, and the legal holder of such lease shall surrender the same for the purpose of receiving a certificate of purchase, he shall not be required to pay the value of the improvements so made beyond the covenants of such lease; and the appraisers to be appointed under the provisions of the above cited act, passed on the thirty-first day of December, in the year eighteen hundred and twenty-seven, in making appraisement of those lands held by temporary lease, shall place in a separate column the value of all such improvements as have been made beyond the covenants of such leases as aforesaid; any thing

in the seventh section of the above recited act to the contrary notwithstanding.

EDWARD KING,
Speaker of the House of Representatives.
SAMUEL WHEELER,
Speaker of the Senate.

February 11, 1828.

AN ACT to amend the act, entitled "An act to amend the act defining the duties of county auditors."

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That the auditor of any county in this state who has heretofore neglected or omitted to have the delinquent list of land or town lots, advertised agreeably to the provisions of the third section of the act to which this is an amendment, shall continue the same on his delinquent list of the succeeding year, and add thereto the tax of the current year, and proceed in the same manner as is required where the delinquency is for one year, without adding thereto any additional penalty or interest.

Sec. 2. That all county auditors within this state, shall cause notice of the sale of any delinquent land or town lots to be published at least four weeks preceding the first day of December, in some newspaper printed in the county where such delinquent lands are situated, if any such there be, and shall pay for publishing the same, a sum not exceeding seventy-five cents per square, for each square contained in such delinquent list and notice, and if no newspaper be printed in such county, or if the proprietor of the newspaper printed in such county refuse to publish such notices for the sum herein allowed, it shall then be the duty of the auditor of such county to cause notice to be published in such other newspaper having circulation in such county as shall, in his opinion, be most likely to give notice to the proprietors of such delinquent lands.

Sec. 3. That the county auditor of any county in this state, on the production of satisfactory evidence by any person or persons, that such person or persons have sold and by deed conveyed any whole tract or tracts of land situated in such county, to any other person or persons, and that all the taxes charged thereon have been fully paid, at the request of such person or persons, shall transfer such tract or tracts to the purchaser or purchasers of the same, and such county auditor, on the production of like evidence by any other person or persons, that any tract or tracts of land, heretofore have been erroneously listed in the name of any other person or persons than the owner of the same, or in the name of un-

known owners, and that such person or persons are the legal owners of the same in fee simple, and that all the taxes charged thereon have been fully paid, at the request of such owner or owners, may transfer the same to him, her or them; any thing in any law or usage to the contrary notwithstanding.

Auditors fees
for making
transfers

Sec. 4 That for any and every transfer made by said auditor, under the provisions of this act or the act to which this is an amendment, the said auditor shall be entitled to demand and receive the sum of twelve and a half cents, when such transfer does not embrace more than three several tracts or lots of land, and when said transfer embraces more than three tracts or lots, he shall be entitled to demand and receive for said transfer, the sum of twenty-five cents, which fee shall be paid by the person making such transfer.

Repealing
clause

Sec. 5. That so much of the third section of the act to which this is an amendment, as requires six weeks notice to be given between the first day of June and the first day of September, and so much of the fifteenth section of the act, entitled "An act to regulate the fees of civil officers in civil and criminal cases," as relates to the fees to be paid for the transfer of land for taxation, be, and the same are hereby repealed.

EDWARD KING,
Speaker of the House of Representatives,
SAMUEL WHEELER,
Speaker of the Senate.

February 11, 1828.

AN ACT to apportion the representation within the state of Ohio.

Thirty-six
senators and
seventy-two
representa-
tives to com-
pose the gene-
ral assembly

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio*, That the General Assembly of this state shall be composed of thirty-six senators and seventy-two representatives, to be apportioned among the several counties as follows, to-wit: The county of Ashtabula one representative, the county of Geauga one representative, and one additional representative to be elected by the county of Geauga, in the year one thousand eight hundred and twenty-eight, and by the county of Ashtabula in the year one thousand eight hundred and twenty-nine, and so on alternately, and the two counties last named one senator; the county of Trumbull two representatives and one senator; the county of Portage one representative and one senator; the county of Cuyahoga one representative, the counties of Medina and Lorain one representative, and the three last named counties one senator; the county of Huron one representative, the counties of Sandusky, Seneca, Wood and Hancock one representative, and

the five counties last named one senator; the county of Columbiana three representatives and one senator; the county of Stark one senator and one representative; the county of Wayne one senator and one representative, and one additional representative to the two last named counties, to be changed alternately, beginning at Wayne; the county of Holmes one representative, the county of Tuscarawas one representative, the county of Coshocton one representative, and the three last named counties one senator; the county of Harrison one representative and one senator; the county of Jefferson one representative and one senator; the county of Belmont two representatives and one senator, and one additional representative to the last named counties, to be changed alternately, beginning at Jefferson; the county of Monroe one representative, the county of Guernsey one representative, and the two last named counties one senator; the county of Licking one representative and one senator; the county of Delaware one representative, the counties of Marion and Crawford one representative, and the three last named counties one senator; the county of Richland one representative, the county of Knox one representative, and the two counties last named one senator, and one additional representative, to be elected in the county of Knox in the year one thousand eight hundred and twenty-eight, and in the county of Richland in the years one thousand eight hundred and twenty-nine, one thousand eight hundred and thirty, and one thousand eight hundred and thirty-one; the county of Muskingum two representatives and one senator; the county of Perry one representative, the county of Morgan one representative, and the two last named counties one senator; the county of Fairfield two representatives and one senator; the counties of Athens and Hocking one representative, the county of Washington one representative, and the three last named counties one senator; the counties of Meigs and Gallia one representative and one senator; the counties of Lawrence and Scioto one representative, the counties of Pike and Jackson one representative, and the four last named counties one senator; the county of Ross two representatives and one senator; the county of Pickaway one representative to be elected in the year eighteen hundred and twenty-eight, and two representatives in the three years next succeeding, the county of Franklin two representatives, to be elected in the year eighteen hundred and twenty-eight, and one representative in the three years next succeeding, and the two last named counties one senator; the counties of Madison, Union, Logan and Hardin one representative, and the four last named counties, and the county of Shelby, one senator; the county of Champaign one representative, the county of Clark one representative, and the two counties last named one se-

ruary twenty-sixth, one thousand eight hundred and twenty-four, as comes within the provisions of this act, be, and the same is hereby repealed.

EDWARD KING,

Speaker of the House of Representatives.

SAMUEL WHEELER,

Speaker of the Senate.

February 12, 1828,

AN ACT to provide for drawing from the United States, and distributing the public arms apportioned to the militia of this state.

Duty of the
Governor to
draw arms

Proviso

Quarter Mas'r
Gen'l to act
by instruc-
tions of the
Governor

Quarter Mas-
ter General to
procure and
keep a book

Quarter Mas-
ter General to
call on com-
m'ts of divis-

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That the Governor of this state, be, and he is hereby authorized to draw from the United States, from time to time, the portion of public arms assigned to the militia of this state, and cause them to be distributed among the several divisions of militia, in proportion to their strength: *Provided,* That the Governor may commute muskets for as many six-pounder field pieces completely mounted and equipped as will together with those already drawn; furnish each brigade with one field piece thus mounted and equipped, and, also, to commute muskets for as many horseman's pistols and sabres as will furnish each brigade together with those already drawn with two hundred pistols and one hundred sabres.

Sec. 2. That it shall be the duty of the Quarter Master General, under the direction of the Governor, to attend to the drawing and distributing the public arms, and shall furnish the commandants of each division with a correct bill of all arms heretofore distributed to his division, stating in such bill the quantity and contract price of each description of arms, and shall furnish every such commandant of division with a similar bill at every subsequent distribution made under the provisions of this act.

Sec. 3. That it shall be the duty of the Quarter Master General to procure a durable book, in which shall be entered all orders relative to the reception and distribution of the public arms, the receipts for all arms delivered to the commandants of divisions, and, also, an account current with each division of militia, in which shall be entered the number and contract price of each description of arms distributed to every such division.

Sec. 4. That it shall be the duty of the Quarter Master General (as soon after the taking effect of this act as the Governor may direct) to address a circular to each commandant of division, requiring him to report forthwith the place

most suitable to deposit the public arms within his division, and on the receipt of such reports, the Quarter Master General shall cause to be transmitted to the commandant of each division and delivered at the place thus reported for deposit, the arms assigned to every such division, and it shall be the duty of the commandant of every such division to receive and receipt for the same, and cause the assistant quarter master general of his division to procure a place for the safe keeping and preservation of all arms assigned to his care.

Sec. 5. That it shall be the duty of the commandant of each division to make a distribution of the arms received by him, among the several brigades within his division in proportion to the strength of each brigade, and shall furnish each commandant of every such brigade with a bill of the arms assigned him, and the contract price of each description, (as furnished by the Quarter Master General,) and shall keep a book in which shall be entered all orders received or issued by him relative to the distribution and safe keeping of the public arms, and all receipts for arms delivered to the order of commandants of brigades, and a regular account current with each brigade within his division.

Sec. 6. That the commandant of each brigade may at any time after the receipt of the bill of arms that may have been assigned him by the commandant of his division, draw an order for the whole or any part of such arms, and on the presentation of such order, the quarter master of division or his assistant having the arms in charge, such quarter master or assistant shall receive the same and deliver to the bearer of such order the arms required, take his receipt therefor, and charge the brigade with the arms thus delivered.

Sec. 7. That the commandant of each brigade shall have the right to distribute the arms assigned to his brigade, to such uniformed companies as he may think most entitled thereto, and shall have a superintending care over the same, and in cases where they may not be kept in good repair, he shall have a right to withdraw them from such company, and cause them to be cleansed and repaired at the expense of the officers of such company, and may have them deposited with the quarter master of brigade, or return them to the same or such other company as he may think will best promote the interest of his brigade.

Sec. 8. That it shall be the duty of the commandant of brigade to take from the commandant of any company to whom he may deliver public arms, a bond with such security as he may approve, in double the amount of the contract price of the arms delivered to such company, drawn payable to the state of Ohio, with a condition for the preservation safe keeping and delivery of such arms in good repair to his successor in command of such company, or to the order of

the commandant of his brigade, for the time being, and the commandant of brigade, for the time being, shall have a right to commence and prosecute a suit on any such bond, in the name of the state of Ohio, before any court having competent jurisdiction, and all moneys collected thereon shall be paid into the state treasury for the use of the state.

Bond may be prosecuted

Duty of commandant of company

Sec. 9. That the captain or commandant of every company, to whom public arms may be delivered, and for which he has given bond to the commandant of brigade, shall be authorized to take bond for his own security from the members of his company, in double the amount of the contract price of the arms delivered, conditioned for their preservation, safe keeping, and delivery when called for, and shall be authorized to sue for and recover the amount of such bond or bonds in case of failure in the conditions thereof.

Inspector of brigade to inspect arms, & report to commandant of division

Sec. 10. That the commandant of each brigade shall cause his brigade inspector to inspect the public arms at least once in every year, within his brigade, as well those that may be in possession of the quarter master of brigade as those in possession of companies; and shall, in his annual report to the commandant of his division, specify the number and condition of each description of public arms within his brigade.

Further duty of cmd't of brigade

Sec. 11. That the commandant of brigade shall cause the quarter master of his brigade to procure a place of safe keeping for the public arms within his brigade, that may not be distributed to companies, and to keep an account current with the commandant of each company, to whom arms may have been delivered, charging him with the arms received and giving him credit for those returned or transferred as provided for in this act.

Bonds how cancelled

Sec. 12. That no bond, given by the commandant of a company under the provisions of this act, shall be cancelled until the arms received by him shall be delivered to his successor in the command of such company and new bonds given as provided in this act, or returned in good order to the brigade quarter master; in either of which cases the commandant of brigade for the time being shall have the right to cancel any such bond; and shall, when cancelled, cause a memorandum of such cancelling to be entered in the books of the quarter master of his brigade; and all bonds heretofore given may be cancelled in like manner.

Gov. to direct the expenses attending the public arms to be paid by the state

Sec. 13. That accounts for expenses of drawing from the United States and distributing public arms to the several places of deposit within the several divisions of militia, and keeping them in repair at such places of deposit, shall be duly made out and submitted to the Governor, and if the same are approved by him, he shall endorse his approval thereon, and on the presentation of such account thus en-

dorsed, the auditor of state shall audit the same and issue bills payable at the state treasury as in other cases; the expenses of drawing arms from the places of deposit within divisions, and transmitting them to the several companies within brigades, shall be defrayed by the officers of those companies to whom they are assigned.

Sec. 14. That all acts and parts of acts heretofore in force relative to the distribution and safe keeping of public arms, be, and the same are hereby repealed: *Provided*, That all bonds given, and liabilities that may have accrued in any way relating to the public arms, are declared as valid, and may be prosecuted to final judgment and execution, in the same manner they could have been had this act not been passed. Repealing
clause

EDWARD KING,
Speaker of the House of Representatives.

SAMUEL WHEELER,
Speaker of the Senate.

February 11, 1828.

AN ACT to loan to the State of Ohio certain money for the use of schools.

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio*, That the sum of forty-six thousand four hundred and twenty dollars forty-three cents and seven mills, now in the treasury of this state for the use of schools in the Virginia Military District, which includes thirty-nine thousand one hundred and ninety-six dollars and fifty cents, loaned to the state by virtue of the act for that purpose, passed the thirtieth day of January, in the year eighteen hundred and twenty-seven, be, and the same is loaned to the state of Ohio for one year, at an interest of six per cent. per annum, to commence on the seventh day of February, in the year eighteen hundred and twenty-eight. * Virginia Mili-
tary School
Fund loaned
for one year

Sec. 2. That the sum of three thousand nine hundred and sixty-seven dollars and twenty-two cents, now in the treasury of this state; for the use of schools in the United States' Military District, which includes the sum of two thousand four hundred and eighteen dollars, loaned to the state, by virtue of the act for that purpose, passed the thirtieth day of January, in the year eighteen hundred and twenty-seven, be, and the same is hereby loaned to the state of Ohio for one year, at an interest of six per cent. per annum, to commence on the seventh day of February, in the year eighteen hundred and twenty-eight, deducting the amount appropriated to John Waggoner and Joseph Armstrong, and Felix Donnally, of two hundred and forty-eight dollars and ninety-four cents. U. S. M. S.
Fund loaned
for one year

C'm'n school fund loaned for one year **Sec. 3.** That the sum of four thousand eight hundred and ninety-two dollars seventy-five cents and five mills, now in the treasury of the state for the use of schools, and belonging to the common school fund of the state, be and the same is hereby loaned to the state of Ohio for one year, at an interest of six per cent. per annum, to commence on the seventh day of February, in the year eighteen hundred and twenty-eight:

Proviso *Provided*, That no compound interest shall be charged to or paid by the state, on any of the sums of money loaned as aforesaid.

Disposition of the money loaned **Sec. 4.** That the several sums of money loaned to the state of Ohio as aforesaid, be, and the same are hereby appropriated for the purpose of constructing the canals of this state, and shall be paid over to the commissioners of the canal fund on the order of the auditor of state, and said commissioners shall refund the same to the state treasury out of any money within their control and subject to their order, at the expiration of one year from the passage of this act.

When to be refunded

EDWARD KING,
Speaker of the House of Representatives.
SAMUEL WHEELER,
Speaker of the Senate.

February 12, 1828.

AN ACT to appropriate lands for the purpose of aiding the Columbus and Sandusky Turnpike Company, in the construction of a road.

Certain lands appropriated to making the road under certain restrictions **Sec. 1.** *Be it enacted by the General Assembly of the state of Ohio*, That all the lands granted by an act of Congress, entitled "An act to grant a certain quantity of land to the state of Ohio, for the purpose of making a road from Columbus to Sandusky," passed March the third, in the year of our Lord one thousand eight hundred and twenty-seven, be, and the same are hereby declared to be for the use and benefit of the Columbus and Sandusky Turnpike Company, for the purposes specified in said act of Congress and for no other purpose whatever, and the same may be sold and disposed of by said company under the restrictions and limitations contained in this act.

The company officers to sell the land **Sec. 2.** That the president and directors of said company may sell said land in such quantities as to them may seem best, for money or for work and labor to be done on said road, and the amount for which said land shall be sold or bartered for work and labor as aforesaid, shall be denominated "Land Stock," and the amount thereof shall be entered in the books of said company, to the credit of said land stock, and when any tract of land is fully paid for and the avails thereof ap-

A land stock created

plied to the construction of said road, to the satisfaction of the auditor of state and a certificate thereof obtained from him and presented to the Governor, the purchaser, his heirs or assigns shall be entitled to a deed for the land so paid for, which deed the Governor, for the time being, is hereby authorized to execute under the great seal of the state, and which shall be signed by the Governor and countersigned by the Secretary of State, and which deed shall vest in the grantee or grantees an indefeasible estate of inheritance in and to the tract of land therein described.

Sec. 3. That said lands or the avails thereof shall be exclusively applied to the construction of said road, and when the said road or any part thereof is finished so as to entitle said company to toll thereon, the tolls or profits arising therefrom, shall annually be divided between said company and said land stock in just proportion to the capital furnished by each; and it shall be the duty of said company to keep an accurate account of all the tolls which under the charter of said company would accrue by the passage of the mail stages or any troops or property of the United States upon said road, and the amount thereof shall annually be divided between said company and the land stock aforesaid, according to the rules of proportion aforesaid, and the president and directors of said company shall annually apply so much of the tolls and profits assigned said land stock as will be sufficient to pay said company their part of the tolls, which under the charter would accrue to them by the passage of the mail stage or any troops or property of the United States upon said road in the proportion aforesaid, and the residue of the tolls and profits assigned to said land stock, shall annually be applied to the improvement of said road, and which residue shall nevertheless remain to the credit of the state in said land stock account.

Sec. 4. That the president and directors of said company, for the time being, and their successors in office before they take any steps under the provisions of this act, shall take an oath faithfully to observe the same, and the said company shall on or before the first day of January, annually, make to the legislature a faithful report of the proceedings of said company, and, also, an account of all moneys expended in constructing said road and keeping the same in repair, and, also, an account of all tolls received under the provisions of this act.

Sec. 5. That all mails and mail stages, and all troops and property of the United States, shall forever pass upon said road free of any toll or imposition whatever.

Sec. 6. That any future legislature shall have power to make any further or other provisions to secure the application of the avails of said lands, to the construction of said road that may be deemed proper and expedient, and, also, to reg-

Distribution
of tolls when
made

Tolls in part
after keeping
the road in re-
pair to be ap-
plied to pay
the company
stock

President and
directors to
take an oath

To report to
the legislature

Exemption
from toll

Power of the
legislature
over the road
company

- ulate or reduce the rate of tolls prescribed in the charter of said company, whenever it shall appear that the nett proceeds of the tolls arising from said road, shall equal the amount of stock, exclusive of said land stock, actually paid in together with six per cent. per annum thereon.

Effect

This act shall take effect and be in force from and after the passage thereof.

EDWARD KING,

Speaker of the House of Representatives.

SAMUEL WHEELER,

Speaker of the Senate.

February 12, 1828.

AN ACT making appropriations for the year eighteen hundred and twenty-eight.

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That the following sums be, and the same are hereby appropriated, to be paid out of any money in the treasury, on the order of the auditor of state, to defray the expenses of government for the year eighteen hundred and twenty-eight, and for other purposes, to-wit: for the payment of the members of the general assembly, their clerks and door-keepers, any sum not exceeding seventeen thousand dollars, in addition to the sum of ten thousand dollars already appropriated; for the payment of the salaries of the governor, secretary of state, auditor of state, chief clerk in the auditor's office, treasurer of state, judges of the supreme court, and president judges of the courts of common pleas, a sum not exceeding eighteen thousand dollars; for defraying the expenses of the penitentiary, including the costs of conviction and transportation of convicts, a sum not exceeding eight thousand dollars, in addition to the sum of two thousand dollars already appropriated; for the payment of the adjutant general, quarter-master general, and brigade inspectors, a sum not exceeding eighteen hundred dollars; for refunding taxes, twice or improperly paid, a sum not exceeding fifteen hundred dollars; for the contingent fund of the governor, an account of the expenditure thereof to be reported to the next general assembly, the sum of three thousand dollars; for the contingent fund of the auditor of state, to pay for books, stationery and clerk hire, for the use of his office, and for the payment of postage on letters and packages addressed to him as auditor of state, on the business of his office, a sum not exceeding fifteen hundred dollars, an account of the expenditure thereof shall be by him reported to the next general assembly; for the payment of books, stationery and postage,

for the use of the state treasurer's office, a sum not exceeding one hundred dollars, an account of the expenditure thereof shall be reported to the next general assembly; for the purpose of procuring from the registers of the land offices and from the principal surveyor of the Virginia Military District, (or other officer appointed to perform the duties of that office) copies of entries, and entries reverted and relinquished, a sum not exceeding three hundred dollars; for bounties on wolf scalps, a sum not exceeding two thousand five hundred dollars; for the payment of the state printer, for printing for the state, a sum not exceeding three thousand five hundred dollars; for paper for the use of the state, a sum not exceeding two thousand five hundred dollars; for folding and stitching, and for distributing the laws and journals of the present session, a sum not exceeding one thousand dollars; for the payment of the salary of the librarian, two hundred dollars; for the payment of periodical works for the state library, a sum not exceeding fifty dollars; for the payment of books for the state library, three hundred dollars; for the payment of the salary of reporter of decisions of the supreme court, three hundred dollars; for one hundred copies of the reports of decisions of the supreme court, a sum not exceeding three hundred dollars; for seals for the courts of common pleas and supreme court of the county of Hancock, the sum of twelve dollars and fifty cents; to Henry Brown, for amount expended by him in the arrest of persons charged with the robbery of the state treasury, the sum of forty-six dollars and fifty cents; to Hannah Miller, widow of Jacob D. Miller, deceased, for a balance due him for his pay as a member of the senate, at the last session, the sum of sixty-five dollars and forty cents; to John Waggoner and Joseph Armstrong, the sum of one hundred and eight dollars and sixty-two cents, to be charged to the United States' Military District School Fund, and the auditor of state is hereby directed, on the payment thereof, to charge the same accordingly; to Joel Butties, for postage of letters and packages addressed to the speaker of the senate and to the speaker of the house of representatives, during the present session, the sum of twenty-two dollars and two cents; to Thomas C. Flournoy, quarter-master general of the state, for his services in receiving and distributing the public arms to the different points required by law, in the year eighteen hundred and twenty-seven, in addition to his salary of one hundred dollars, the sum of two hundred and fifty dollars; to E. Browning, for expenses of the funeral of James W. Lathrop, esq. late a member of the house of representatives, paid by him by the order of the committee of arrangements, appointed by the house, the sum of twenty-eight dollars and eighteen cents; to Jeremiah M'Lene, for his account of payments for quills, paper and candles, the sum of one hundred and seventy-eight dollars and seventy-five cents; to Osborn

and Leiby, for their account of sundries, the sum of twenty-four dollars and nineteen cents; to Lincoln Goodale, for his account for stationery, &c. the sum of seventy-seven dollars and fifty-six cents; to O. & S. Crosby, for their account for wafers the sum of seven dollars; to Jacob Overdeer, for labor on the state house, the sum of one dollar and twenty-five cents; to Gill & Greer, for their account of buckets, &c. the sum of five dollars and twenty-five cents; to H. Delano, for his account of crape for the use of the members, and tapes, the sum of five dollars and twelve cents; to the commissioners of the canal fund, for the purpose of paying interest on the loans contracted for the construction of the Ohio and Miami canals, the sum of forty thousand dollars; to Thomas R. McKnight, superintendent of the Miami and Western Reserve road, a balance due him for payments of repairs on said road, the sum of two hundred and fifty-eight dollars, to be charged to the account of said road; for the purpose of paying the balance due on repairs, and on old contracts for making the Miami and Western Reserve road, the sum of one thousand and eighty-three dollars, to be charged to the account of said road; for the purpose of paying to Seth Doane whatever sum may be reported due to him for work done on the Miami and Western Reserve road, by the superintendent of said road, a sum not exceeding two thousand dollars, to be charged to the account of said road; to Noble H. Merwin, of the county of Cuyahoga, the sum of sixteen dollars and eighteen cents, for state taxes remitted to him for the year eighteen hundred and twenty-six, and there is also hereby appropriated to the said Noble H. Merwin the further sum of thirty-six dollars and forty cents, to be paid out of the treasury of the county of Cuyahoga, on the order of the auditor of said county, for county taxes remitted to him for the said year eighteen hundred and twenty-six; to Felix Donnally, the sum of sixty-eight dollars and thirty-two cents, to be charged to the United States' Military District School Fund, and the auditor of state is hereby directed, on the payment thereof, to charge the same accordingly; to Nathan Cole, for carrying wood, keeping fire in stove, &c. thirty-six dollars; to Peter Grubb, for repairing windows, thirteen dollars.

EDWARD KING,

Speaker of the House of Representatives.

SAMUEL WHEELER,

Speaker of the Senate.

February 12, 1828.

AN ACT to abolish the office of township treasurer, for the township of Cincinnati.

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That from and after the taking effect of this act, the office of township treasurer, in and for the township of Cincinnati, shall be, and hereby is abolished; and the treasurer of the county of Hamilton shall hold all moneys which are or may be in his hands, belonging to the said township of Cincinnati, subject to the orders of the trustees of said township; any law, usage or custom to the contrary notwithstanding: *Provided*, That nothing in this act shall be so construed as to change or vary the application of the funds of said township from the objects designated by law.

This act shall take effect and be in force from and after the first Monday of April next.

EDWARD KING,
Speaker of the House of Representatives.

SAMUEL WHEELER,
Speaker of the Senate.

February 11, 1828.

AN ACT authorizing county surveyors to obtain copies of the field notes of the original corners of land in their respective counties.

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That it shall be the duty of the county surveyor in each county in this state, when directed by the commissioners of his county, to procure from the surveyor general's office, or other proper office, a certified plat, together with the field notes of the corners and bearing trees to each section, quarter section, lot or original survey in his county, and cause the same to be preserved in a book by him provided for that purpose, which shall be deposited in the county auditor's office, for the use of the landholders in said county; a certified copy from said book, by the auditor, shall be received as prima facie evidence where the original would have been received.

Sec. 2. That the expenses incurred, by reason of the provisions of the first section of this act, shall be paid out of the treasury of the respective counties, on the order of the county auditor.

EDWARD KING,
Speaker of the House of Representatives.

SAMUEL WHEELER,
Speaker of the Senate.

February 11, 1828.

AN ACT to provide for granting temporary leases of certain school lands.

Township
trustees au-
thorized to
lease section
16 in certain
cases

Proviso

Further pro-
viso

Other lands
may be leased
by township
trustees

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That the trustees of each and every original surveyed township or fractional township in this state, to which belongs section sixteen or fractional section sixteen, or other lands in lieu thereof, for the use of schools, and to the sale of which the inhabitants of such township have not given their consent, are hereby authorized, provided the same has not been permanently leased, to lease said lands in lots of not more than one hundred and sixty acres, on such terms as they may think most conducive to the interest of the inhabitants of such township: *Provided,* That no lease of any of said lands which are improved shall be granted for a longer term than three years, and of unimproved lands for a longer term than seven years; and should the consent of the inhabitants of any such township to the sale of said lands be hereafter obtained, no lease thereof shall be granted for a longer term than one year after such consent shall be obtained: *And provided also,* That in leasing those lands which have heretofore been leased, said trustees shall always give a preference to the former lessee, if he shall have in all things fulfilled his former lease.

Sec. 2. That it shall be the duty of said trustees of each and every original surveyed township or fractional township in this state, to which belongs section sixteen, or other lands given in lieu thereof, for the use of schools, and to the sale of which the inhabitants of such township have given their consent, provided the same has not been permanently leased, to lease said lands in lots of not more than one hundred and sixty acres, from year to year, and upon such terms as they may think most conducive to the interest of the inhabitants of such township, and when any lot of said land so leased as aforesaid shall be sold, the purchaser shall have the benefit of the lease for that year in which the sale is made.

EDWARD KING,
Speaker of the House of Representatives.

SAMUEL WHEELER,
Speaker of the Senate.

February 11, 1823.

AN ACT to incorporate the New Philadelphia Lateral Canal Company.

Corporation
created

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That Nicholas Neighbor, Peter Williams, John Coventry, Thornton Whitacre, Gabriel Cryder, Thomas Sergeant, George K. Gray, William Albert, Walter M. Blake, David Peter, Abraham Shane, Thomas Cummings, and their

associates, be, and they hereby are constituted and declared a body politic, by the name and style of the "New Philadelphia Lateral Canal Company." for the purpose of making a its object navigable canal from the town of New Philadelphia, in Tuscarawas county, to such point of the Ohio Canal as by the canal commissioners shall be deemed most eligible, by means of a dam across the Tuscarawas river, and for using the surplus water thereof for hydraulic purposes, near said town; and for this purpose, the said company is hereby authorized and empowered to have and receive, purchase, possess, enjoy and retain lands, rents, goods, chattels and effects of any kind, and to any amount necessary to carry into effect the objects of the institution; and the same to use, sell, alien and dispose of at pleasure; to sue and be sued, defend and be defended, in all courts having competent jurisdiction; to have and use a common seal, and the same to break and alter at pleasure; to ordain and establish such rules, regulations and by-laws as may be necessary for the well ordering and governing the corporation, and generally to possess all the privileges, and do and perform all the acts necessary to a corporation; subject, however, to the restrictions, provisions and limitations contained in this act.

Their powers defined

Sec. 2. That the capital stock of said company shall consist of fifty thousand dollars, which shall be divided into shares of fifty dollars each, and shall be transferable in entire shares, in such manner as the rules of the corporation shall prescribe: *Provided*, That no stockholder, without the consent of the directors, shall be at liberty to transfer his stock after any instalment is ordered, until such stockholder shall have paid the amount due on his stock.

Amount of stock

Proviso

Sec. 3. That the persons named in the first section of this act, or any number of them, not less than seven, shall be commissioners to receive subscriptions, and, also, to do and perform all necessary acts to organize the company; and they are hereby authorized and empowered to cause books to be opened at such times, and in such places as a majority of them shall think proper, to receive subscriptions to constitute the capital stock of said company; the commissioners shall require ten per centum of the amount of each subscription, to be paid at the time it is subscribed; and each subscriber shall be bound to pay, from time to time, such instalments on his stock as the directors may lawfully require.

To receive subscriptions

Sec. 4. That when one hundred shares are subscribed, the commissioners shall call a meeting of the subscribers, by causing notice of the time and place of such meeting to be published in some newspaper in general circulation in the places in which the books shall have been opened and the stock subscribed; and on such notice being given, the stockholders shall meet at the time and place appointed; and when so assembled, may proceed to elect directors, and adopt such rules

100 shares being subscribed a meeting to be called

and regulations, for the government of the corporation, as are lawful and expedient; the stockholders may vote by person or proxy, and for each share such stockholder may possess he shall be entitled to one vote.

Seven directors to be elected annually

Sec. 5. That the affairs of the company shall be managed by seven directors, or a majority of them, who shall be elected by the stockholders, once in three years, unless a shorter period shall be ordained by the rules of the corporation; and each director shall be a stockholder at the time of his election and shall cease to be a director, if he cease to be a stockholder.

Directors to appoint a president, &c

Sec. 6. That the directors so elected or appointed shall, at their first meeting after said election, choose one person, from their own number, who shall serve as president of the board, for and during the time for which he shall have been

President, &c to take an oath

elected a director; the president and directors, previous to their entering on the duties of their office, shall severally take an oath or affirmation faithfully and impartially to discharge all duties appertaining to said office, by virtue of the provisions of this act, or the rules of the corporation; they

A treasurer to be appointed, give bond, &c

shall appoint a treasurer, and cause him to give bond, with security, conditioned for the faithful performance of all duties appertaining to said office; they shall determine the amount of any instalment, and the time when the same shall be paid; but no stockholder shall be required to pay any instalment until after such order shall have been published in some newspaper in circulation in the place where such stockholder resides, or where his stock was subscribed, at least thirty days before the time of payment; neither shall any stockholder be bound to pay more than ten per centum on the amount of his stock at one time, nor more than fifty per centum in any one year.

Duty of treasurer

Sec. 7. That it shall be the treasurer's duty to keep the books of the corporation; to receive and collect from subscribers and others, all moneys due the corporation, and on proper vouchers being produced, pay out the same; he shall, when required, exhibit to the directors an account of all sums of money by him so received and paid out; and the books, accounts and vouchers thus kept, shall at all times be subject to the inspection of the stockholders.

Corporation authorized to take lands, &c

Sec. 8. That it shall and may be lawful for the said directors to enter upon and take possession of any lands, waters or streams necessary to make said canal, and supply or improve the same for hydraulic purposes, or to make or supply any of the appendages thereof, such as dams, feeders, dikes, locks waste-weirs and other works, doing nevertheless no unnecessary damage; and in case any lands, waters or streams so wanted to be appropriated for any of the purposes aforesaid, shall not be given or granted to the said corporation, and the proprietor or proprietors cannot or do not agree with the directors

as to the amount of damages or compensation which ought to be allowed or paid for the same, and shall not mutually agree on some person or persons to appraise the damages, it shall be lawful for the directors aforesaid to apply to any judge of the court of common pleas of the county, not a stockholder in the company or otherwise interested, who shall appoint three disinterested freeholders to assess the damages, the directors shall give notice to such persons of their appointment, and also to the adverse party or his guardian, agent or attorney, and it shall be the duty of the persons so appointed to attend at the time and place specified in the notice, who after being duly sworn or affirmed faithfully and impartially to discharge their appointed duties, shall proceed on actual view to make a just estimate and appraisement of any damage such individual may sustain, taking into consideration the benefits which such proprietor or proprietors will derive from the location and construction of said canal and hydraulic power, and shall make a certificate of such appraisement with a particular description of the premises, to which certificate they or a majority of them shall sign their names, and deliver to each party one copy, and immediately thereafter, if no damages are assessed, or on payment or tender of money to the amount of damages assessed, to the person or persons injured, his guardian, agent or attorney, the said directors may proceed to enter upon and occupy such land, streams or waters, and a complete title to the premises to the extent, and for the purposes set forth in or contemplated by this act, shall thereby be vested and forever remain in the said company: *Provided, however,* That if either party shall consider himself aggrieved by the decision of the appraisers so aforesaid made, such party may apply to the court of common pleas of the proper county, at the succeeding term of said court, or if there should not be a quorum of said court disinterested, then to the supreme court at its next session in said county, giving ten days notice of such intention to the adverse party, and the said court upon good cause shewn, shall appoint three disinterested freeholders, who shall after being duly qualified, proceed to view and appraise the damages, and shall certify their proceedings in the same manner as the former appraisers, and their decision shall be final and determinate; but the pendency of any such application to the court shall not in the mean time hinder the progress of the work: *And provided, also,* That this act shall not be so construed as to authorize the taking or diverting from their course any streams or waters probably necessary to feed or supply the Ohio Canal, without permission first obtained from the board of canal commissioners.

Sec. 9. That it shall be the duty of the said company to cut, make and construct said canal of such width and depth as will be most convenient for canal navigation, and in a man-

Damages how assessed

Proviso allowing an appeal

Further proviso

Construction of the canal

ner best calculated to insure the permanency of the hydraulic power thereby created; and the said company shall construct a bridge over said canal suitable for the passage of carriages, at each and every place where a state or county road crosses the same, and where the said canal is so made and completed, it shall forever thereafter be esteemed and taken to be navigable as a public highway, free for the passage of boats, and for the transportation of all goods, commodities and produce whatsoever, on payment of tolls which may lawfully be required.

Rates of toll
to be estab-
lished &c

Sec. 10. That when the whole or any part of the said canal is completed according to the true intent and meaning of this act, the president and directors shall have power, if deemed by them advisable, to ordain and establish a rate of tolls which shall be paid upon vessels, boats, rafts or other property passing on such part or whole of said canal that is navigable, and for the collection of said tolls, the president and directors may appoint a collector and establish a toll house at a suitable place, and may ask, demand and receive on all boats, rafts, vessels and other property passing or navigated on said canal, such toll or tolls as shall be established agreeably to the provisions of this act; and may, also, rent, sell or otherwise dispose of for hydraulic powers any superabundant or waste waters of the said canal: *Provided* That any subsequent legislature may regulate the rate of tolls which said company may receive at any time after the completion of the said canal.

Dam to be
constructed
across the
Tuscarawas
river

Sec. 11. That for the purpose of creating a water power for propelling machinery to as great extent as practicable, the said company shall be, and hereby is authorized so to construct a dam across the Tuscarawas river, as to use all water running therein which may not, in the opinion of the canal commissioners, be necessary for the Ohio Canal: *Provided*, The said dam shall not be raised to a level of more than eight feet six inches above the ordinary surface of the water at the ferry at said town of New Philadelphia.

Dividends to
be declared

Sec. 12. That the president and directors shall, annually or semi annually, declare and make a dividend of the profits arising from tolls or any other source, reserving such sum or sums as will defray the necessary current and probable contingent expenses, which dividend shall be paid or passed to the credit of the stockholders severally in proportion to the shares each may hold in the stock of said company.

Company en-
titled to the
benefits of cer-
tain laws

Sec. 13. That the company shall be entitled to the benefit of all laws which are or hereafter shall be in force for the collection of tolls or rents, or for the protection of any canals constructed by the state, so far as such law or laws are necessary to insure the collection of tolls or rents or for the protection of the canal, its appendages or other property, which the com-

pany may lawfully hold in order to carry into effect the provisions of this act.

Sec. 14. That nothing in this act contained shall be so construed as to authorize said company to employ any of its funds directly or indirectly in any banking concern.

EDWARD KING,
Speaker of the House of Representatives.

SAMUEL WHEELER,
Speaker of the Senate.

January 16, 1828.

AN ACT to incorporate the Sandy and Beaver Canal Company.

Sec. 1. *Be it enacted by the General Assembly of the state of Ohio,* That Benjamin Hanna, David Be ges, Horace Potter, George McCook, James Robertson, Joseph Richardson and Elderkin Potter, of Columbiana county, Christian Deardoff and Henry Laffer, of Tuscarawas county, William Christmus, William Henry, William Reynolds and Jacob Hostetter, of Stark county, and their associates and successors, be, and they are hereby constituted and made a body politic and corporate, and shall be and remain a corporation forever, under the name of "The Sandy and Beaver Canal Company;" and by that name may sue and prosecute, and be sued and prosecuted to final judgment and execution, in all courts having competent jurisdiction; and may have a common seal, and the same alter and renew at pleasure; and shall be, and hereby are vested with all the powers and privileges which are by law incident to corporations of a similar nature, and which may be necessary to carry into effect the objects of this corporation.

Sec. 2. That the said corporation be, and they are hereby authorized to locate, make, construct and forever maintain a navigable canal, with all necessary locks, towing paths, basins, aqueducts, culverts, waste-weirs, dams, wharves, embankments, toll houses and other necessary appendages; commencing at a suitable point on the Ohio canal, at or near the mouth of Big-Sandy creek, thence to the waters of the Middle-fork of Little-Beaver creek, at or near the town of New-Lisbon, in Columbiana county, and thence to the eastern boundary of the state of Ohio, at or near the mouth of Little-Beaver creek; with further power to employ and use, as reservoirs or feeders, for the purpose of supplying with water said canal, or such works as may have any portion of their waters diverted from them to supply said canal, the different ponds, rivers and streams of water near or over which said canal may pass, and also to save the flood and other waters

In said ponds, rivers and streams, so used as aforesaid, and construct artificial reservoirs for the purposes aforesaid; and the said corporation shall have power to connect with said canal, by feeders or by navigable canals, any or all of said ponds, rivers, streams and reservoirs.

Owners of
land, &c. to be
compensated

Sec. 3. That for the purpose of assuring to said corporation all the lands, real estate, waters and materials, requisite for most economically constructing and maintaining said canal, and the waters connected therewith, and incident and necessary to the navigation of the same, whenever the said lands, waters and materials shall not be obtained by voluntary donation or fair purchase, it shall be lawful for said corporation by any of their officers, and by each and every agent, superintendent or engineer by them employed, to enter upon, take possession of, and use all such lands, real estate and streams as shall be necessary for the purposes aforesaid; and also to enter upon and take all necessary materials for the construction of said canal and other works connected therewith, adjoining or near said canal or other works, on whose lands soever the same may be, doing thereby no unnecessary damage, they satisfying and paying all damages which may be occasioned thereby to any person or persons, corporation or corporations, in the manner hereinafter provided.

Route of canal
may be
changed

Sec. 4. That if at any time after said canal, or any of its branches or feeders are located, any unforeseen obstacles, impediments or inconveniences occur on the route located, the said corporation shall have power to deviate from said route so far, and in such manner as may be best calculated to surmount, overcome or avoid such obstacles or inconveniences, said corporation satisfying all damages which may be occasioned thereby, in the manner hereinafter provided; and said corporation may from time to time make such alterations in the course of said canal, its branches and feeders, as may be necessary or expedient, satisfying all damages in manner aforesaid.

Corporation
may purchase
& appropriate
lands, &c.

Sec. 5. That said corporation be, and hereby are authorized and empowered to purchase and hold, to them and their successors forever, real and personal estate to any amount necessary for constructing, maintaining and repairing said canal, and the works connected therewith, as aforesaid; and may receive, hold and take all voluntary grants and donations of lands and real estate which shall be made to aid the objects of said corporation; and may also erect mills and other hydraulic works on the waters connected with said canals, feeders and reservoirs; and whenever, in either of the ways aforesaid, said corporation shall become possessed of, and own any lands or real estate which it may be necessary for them to retain for the purposes aforesaid, it shall be lawful for them to lease, occupy, alien and convey the same by lease or deed, with their seal affixed thereto: *Provided how-*

~~over~~, That all lands and waters belonging to said corporation, necessary for the navigation of said canal, and for maintaining and repairing the same and the works connected therewith as aforesaid, shall be held by said corporation, and applied to and for the aforesaid purposes.

Sec. 6. That a toll be, and hereby is granted and established for the sole benefit of said corporation forever; and it shall be lawful for said corporation, from time to time, to fix, regulate and receive the tolls and charges by them to be received for the transportation of property or persons on the canals authorized by this act: *Provided*, That the neat proceeds of the tolls and charges thus fixed, regulated and received by said corporation, shall at no time exceed twenty per centum annually on the capital stock of said company, or the highest rate of tolls and duties, together with the charges of freight, to which property of a similar kind is subjected, as the cost of transportation, on the Ohio canal during the same period of time.

To regulate & receive toll

Proviso

Sec. 7. That the president and directors of said corporation shall have power, from time to time, to make and ordain such by-laws, rules and regulations as may be necessary, touching the premises; especially to fix upon and determine the size and form of boats, rafts, and all other vessels that shall be used for the purpose of navigating said canal, or any of its branches; to determine the time and manner of their passing the locks and what commodities shall not be transported during a want of water, should such an event happen on any portion of said canal: *Provided*, The same be not repugnant to the constitution and laws of this state or of the United States; and the penalties imposed by said by-laws, rules and regulations may be sued for and recovered by the treasurer of said corporation, or by any other person thereunto by said corporation authorized, to their own use and benefit, before any court having competent jurisdiction; which penalties shall in no case exceed the sum of ten dollars; and said corporation shall cause said by-laws, to the breach of which penalties are affixed, to be printed, and a copy thereof to be placed in some conspicuous situation at each toll-house; and if any person or persons shall wilfully or maliciously mar, deface or pull down any copy so set up, said corporation may sue for and recover, to their own use, a sum not exceeding ten dollars, nor less than five dollars, of any such person or persons.

President and directors to make by-laws

Proviso

By-laws to be printed

Sec. 8. That if any person or persons shall wilfully obstruct the water or navigation, remove, or in any way spoil, injure or destroy said canal, or its branches, feeders or reservoirs, or any part thereof, or any thing belonging thereto, or any materials to be used in the construction or repairs thereof, such person or persons, (or any person or persons assisting, aiding or abetting in such trespass,) shall forfeit and

Penalty for injuring canal

How recovered

pay to the said corporation, treble the amount of damages sustained by means of such offence or injury, to be sued for and recovered, with costs of suit, in an action of debt, in any court having competent jurisdiction, by the treasurer of said corporation, or by any person thereunto by said corporation authorized.

Damages how assessed

Sec. 9. That whenever any lands, waters, streams or materials, shall be taken and appropriated by said corporation, for the location or construction of said canal or any of its branches, feeders or appendages, or any work or device appertaining thereto, and the same shall not be given or granted to said corporation, and the proprietor or proprietors do not agree with said corporation as to the amount of damages or compensation which ought to be allowed and paid therefor, and shall not mutually agree on some person or persons to appraise the same, the damages shall be estimated and assessed by three commissioners, to be appointed by the court of common pleas for the county in which the damages complained of are sustained, in manner following: Whenever said corporation shall have located said canal or any part thereof, or any of its branches, feeders or reservoirs, and shall have put the same under contract, or shall have used or appropriated any waters, streams or materials for the construction thereof, any person or persons, corporation or corporations, injured thereby, may at any time within six months thereafter, file his, her or their claim for damages in writing, particularly describing the premises, with some one of said commissioners or with the clerk of the court of common pleas, for the county in which the damages complained of are sustained; and said commissioners, or any two of them, having been first duly sworn to a faithful and impartial discharge of their duties, within a reasonable time thereafter, (they themselves having had notice from the claimant, in case the claim is lodged with the clerk of the court of common pleas, that such claim has been there filed,) having given previous notice to all parties interested, of the time and of the claims to be examined, by publishing an advertisement thereof three successive weeks in some newspaper printed in said county, or in general circulation therein, in case none should be printed in the county, shall meet and pass over the premises so used or appropriated by said corporation, for the purposes aforesaid; and after hearing the parties in interest or such of them as desire to be heard, shall according to the best of their skill and judgment, estimate all such damages as they shall think any person or persons, corporation or corporations have sustained or will sustain by the opening of said canal or any of its branches or feeders, through his, her or their lands, or by the construction of any reservoirs, embankments, towing paths, basins, wharves or other appendages, or for any materials used in the construction thereof, or from the diversion

Claims for damages to be filed with the clerk of the court

Duty of the commissioners

of the water from any of the ponds, rivers or streams, herein before mentioned, over and above the benefit and advantage which said commissioners shall adjudge may accrue to such person or persons, corporation or corporations, from opening said canal; and the said commissioners or any two of them shall make a report in writing, and as soon as may be file the same with the clerk of the court of common pleas for said county, and the same may be made a rule of said court, at the next succeeding or any subsequent term thereof, as in the case of awards; and the report of said commissioners, when affirmed and recorded, shall forever be a bar to any action commenced or to be commenced for damages against said corporation, on account of the injury for which such damages were awarded; and if the party filing a claim for damages as aforesaid, shall fail to obtain damages in his favor, such party shall be liable for all costs arising from such application, and the court may enter judgment and issue execution therefor as in other cases; and on all judgments against said corporation, for damages assessed as aforesaid, or for the costs thereof, execution may issue in the common form, mutatis mutandis, and may be levied on the goods and chattels, lands and tenements of said corporation; and said commissioners shall be allowed three dollars a day, each, for their services, under the provisions of this act, to be paid by said corporation, except as herein before provided.

Comm'r's to report to the court
Proceedings on the report
Comm'r's compensation

Sec. 10. That it shall be the duty of said corporation to make and construct said canal, with good and sufficient locks, and also, to build and keep in good repair, suitable and convenient bridges over said canal, in all places where said canal shall pass any existing state or county road, which at the time shall be opened and used as such; and said canal and the works to be erected thereon, in virtue of this act, when completed, shall forever thereafter be esteemed and taken to be navigable as a public highway, free for the transportation of all goods, commodities and produce whatever, (except such as may be inhibited during a scarcity of water, as provided for in the seventh section of this act,) on payment of the tolls to be imposed, as provided by this act, and no other toll or tax whatever for the use of said canal and the works thereon erected, shall at any time hereafter be imposed, but by consent of the state of Ohio.

Locks and bridges to be made
The navigation to be free with certain exceptions

Sec. 11. That in all cases where any road or public highway is so located that said canal or any of its tributaries, cannot be judiciously laid out and made, without interfering therewith, it shall be lawful for said corporation to cause such road or highway to be so altered as that said canal and other works may be laid out and constructed on the most advantageous site of ground. *Provided*, That said corporation shall cause such road or highway, thus altered, to be put in as good repair as the old one was at the time of removing the

Roads may be altered &c
Proviso

same, at their own cost and expense, and before shutting up or obstructing said highway.

Damages how
assessed when
canal or feed-
ers are altered

Sec. 12. That if after the location and construction of said canal as aforesaid, any alterations shall be made in the course thereof, or in the course of its feeders or branches, or if any new reservoirs, branches or feeders, shall be made in aid of said canal, the damages may be estimated in the same way, and the same proceedings may be had, in manner provided in this act: *Provided, however,* That in all cases it shall be competent for said company and any person or persons, corporation or corporations, injured by the location or construction of said canal or any of its tributaries or appendages, to submit the question of damages to such arbitrators as they may agree upon, whose award, when made and returned to the court of common pleas, within and for the county wherein the damages have been sustained, and affirmed by said court, shall be final, and said court may enter judgment accordingly.

Provide

Books to be
opened for
subscription

Sec. 13. That the said corporation shall be, and is hereby authorized to raise sufficient funds for the accomplishment of the objects aforesaid; and for that purpose, the persons named in the first section of this act, or a majority of them, shall be commissioners, whose duty it shall be, so soon after the taking effect of this act, as a majority of them shall judge proper, to cause books to be opened at such times and places as they shall think fit, under the management of such persons as they shall appoint, for receiving subscriptions to the capital stock of said company, each share to be of the amount of one hundred dollars, and each subscriber to be a member of said corporation, for all purposes; and public notice shall be given in such manner as may be deemed advisable by said commissioners, of the times and places of opening said books; and the said commissioners, or a majority of them, may prescribe the form of said subscription, and whenever the sum of three hundred thousand dollars, or a greater part of the stock of said company, shall have been subscribed, it shall be the duty of said commissioners, or a majority of them, to call a meeting of the stockholders, by causing notice to be published in one or more newspapers in general circulation in the respective places in which the books shall have been opened and stock subscribed, at least twenty days previous thereto, of the time and place of such meeting, which shall be at some convenient town, or place near the route of the contemplated canal; at which meeting the stockholders, who shall attend for that purpose, either in person or by lawful proxy, shall elect by ballot seven directors, who shall hold their offices until the expiration of one year, and until others shall be chosen in their places; and the said commissioners shall be inspectors of the first election of directors of the said corporation, and shall certify under their hands, the names of

Shares 100
dollars

Meeting of
the stockhol-
ders to be
called

those duly elected, and shall deliver over to them the said certificates and subscription books; and at said election, and at all other elections or voting of any description, every member shall have a right to vote by himself or proxy duly authorized in writing, and each share shall entitle the holder to one vote; and that the management of the concerns of the said corporation, shall be entrusted to seven directors, to be elected annually by the stockholders, by ballot; and that the directors first chosen, and such directors as shall thereafter be chosen, at any subsequent election, shall immediately thereafter meet and elect one of their number, who shall be president thereof, until another election, and, also, elect a treasurer and secretary, who may be removed at the pleasure of the said president and directors, and others elected in their places; and that a majority of said directors shall constitute a board, for every purpose within the provisions of this act. Directors, &c. to be elected

Sec. 14. That in case it should at any time happen that the election of directors shall not be held on any day when, pursuant to this act, it ought to be held, the said corporation shall not, for that cause, be deemed to be dissolved, but such election may be held at any other time directed by the by-laws of said corporation. Election of directors

Sec. 15. That the books of subscription shall remain open as long as the president and directors shall see fit; and each subscriber shall be bound to pay, from time to time, such instalments on his stock as the said president and directors may lawfully require, they giving at least thirty days previous notice of the time and place of making the payments required, in at least one newspaper in general circulation in each of the counties through which said canal may pass; but no assessment shall ever be made so as to render any subscriber liable to pay more than one hundred dollars for a share; if, however, after the closing of said books, or at any time, it shall appear that sufficient funds have not been raised, the president and directors of said company, as its officers duly authorized for that purpose, may at any time, and from time to time, raise the necessary funds by creating and selling additional shares, in such manner and upon such terms as the president and directors shall prescribe; and the holders of such additional shares shall thence forward be members of said corporation for all purposes. Instalments to be paid on 30 days notice
Additional shares may be created

Sec. 16. That if any subscriber shall neglect to pay his subscription, or any portion thereof, for the space of thirty days after he is required so to do, by the said president and directors, notice having been given as required in this act, the treasurer of said corporation, or other officer duly authorized for that purpose, may make sale of such share or shares at public auction to the highest bidder, giving at least thirty days previous notice thereof, in some newspaper in general circulation. To sell shares for non-payment of instalments

circulation at the place of sale; and the same shall be transferred by the treasurer, in the manner hereinafter provided, to the purchaser; and such delinquent subscriber shall be held accountable to the corporation for the balance, if his share or shares shall be sold for less than the amount remaining due thereon, and shall be entitled to the overplus, if the same shall be sold for more than the amount so remaining due, after deducting the costs of sale.

Stock to be transferred by deed

Sec. 17. That the stock of said corporation shall be considered and deemed real estate; and any share or shares of any stockholder may be transferred by deed duly acknowledged and recorded by the clerk of said corporation, in a book to be kept for that purpose; which book or books shall at all reasonable times, during the usual hours of transacting business, be open to the examination of any person having in his possession any demand against said company; and the treasurer is hereby authorized to make transfers, in like manner, of the shares of members, sold according to the provisions of the last preceding section of this act.

The right of infants, &c., preserved.

Sec. 18. That when the land, or other property or estate, belonging to any infant, feme covert, or person non compos mentis, shall be taken and appropriated for the use and purpose of said canal as aforesaid, the husband of such feme covert, and the guardian of such infant or person non compos mentis, respectively, may execute any deeds, enter into any contracts, or do any other matter or thing, respecting such lands or other estate, to be taken and appropriated as aforesaid, as they might do if the same were by them holden in their own rights respectively.

Shares to be exempted from taxation

Sec. 19. That for and in consideration of the expenses the said corporation will be at in constructing said canal, and other works connected therewith as aforesaid, and in improving and keeping the same in repair, the said canal and all other works aforesaid, together with all tolls, rents and profits arising therefrom, shall be, and the same are hereby vested in the said corporation: *Provided*, That the state shall have the power, at any time after the expiration of fifty years from the time of the completion of said canal, to purchase and hold the same for the use of said state, by paying to the said corporation therefor the amount expended by them in locating and constructing the same, together with fifteen per centum thereon.

Proviso.

Collection of tolls

Sec. 20. That the said corporation shall be entitled to the benefit of all laws which are or shall be in force for the collection of tolls, or for the protection of any canals constructed by this state, as far as such law or laws shall be necessary to ensure the collection of tolls or for the protection of the canals and other property which the said corporation may lawfully hold within the limits of this state, in order more fully to carry into effect the provisions of this act; and in any suit

instituted against the said corporation, the service of legal ^{Service of} process on the president, any one of the directors, or on the treasurer or secretary of said corporation, shall be deemed and held, in all courts and places, a sufficient and valid service on the said corporation.

Sec. 21. That when the said canal, and other works connected therewith, shall be completed, the president and directors of said company shall make out a minute, full and detailed statement, in writing, of the expenses incurred by the said corporation, in locating and constructing said canal and other works aforesaid; which report shall be made under oath of the president, and shall be by him filed in the secretary's office of this state; and if, after the completion of said canal as aforesaid, any alterations shall be made in the course thereof, or in the course of any of its feeders or branches, or if any new reservoirs, branches or feeders shall be made in aid of said canal, the said president and directors shall, in like manner, from time to time, make out and file statements of the expenses incurred by such alterations or additional works as aforesaid. ^{A statement of costs to be made out, &c.}

Sec. 22. That it shall and may be lawful for any corporation, or state, or for the government of the United States, to subscribe for any number of shares of stock in said company, upon the same terms as other subscribers are authorized to take and subscribe for the same. ^{States, &c may subscribe}

Sec. 23. That this act shall be deemed a public act, and shall be benignly and favorably construed for the purposes therein expressed and declared, in all courts and places whatsoever. ^{Authentication}

Sec. 24. That this act shall not be so construed as to vest any banking powers, or any other powers in said corporation, not necessary to promote the object herein specified. ^{No banking permitted}

Sec. 25. That if the corporation hereby created, shall not within twelve years from the time of the taking effect of this act, construct, finish and put in operation the canal hereby contemplated, or if after the completion thereof they shall fail for twelve months at any one time to keep the same in repair, then or in either case the said corporation shall thenceforth cease and their charter be forfeited. ^{Canal to be finished in twelve years}

EDWARD KING,
Speaker of the House of Representatives.
SAMUEL WHEELER,
Speaker of the Senate.

January 11, 1828.

SECRETARY OF STATE'S OFFICE,**COLUMBUS, OHIO, MARCH 22, 1828.**

I certify the foregoing Acts to be correct copies from the original rolls remaining on file in this office.

JER. M'LENE, *Secretary of State.*

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REPORT

OF THE

COMMITTEE ON FINANCE.

The Committee on Finance, to whom was referred the Report of the Commissioners of the Canal Fund, and so much of the Report of the Canal Commissioners as relates to their accounts, and the accounts of the Acting Canal Commissioners, respectfully

REPORT.

That they have carefully examined the accounts and vouchers in relation to the receipts and disbursements of the Canal Fund, and the accounts and vouchers in relation to the expenditures on the Ohio and Miami Canals, in the construction thereof, for the year ending the 30th of November, 1827.

The receipts and disbursements of the Canal fund, for the year ending November 30, 1827, are as follows:

RECEIPTS.

Unexpended balance which remained undrawn, on the 30th of November, 1826, consisting of the following items:

Amount deposited in the Manhattan Bank, New York,	\$194,978 40
Amount deposited in the Lancaster Ohio Bank,	4,682 15
Amount deposited in the Western Reserve Bank,	48,060 44
Balance in the hands of Ethan A. Brown,	158 00
Do do Simon Perkins,	36 88

Total amount on hand and unexpended, November 30, 1826,	\$247,915 87
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Balance of the loan of 1826,	413,634 51
------------------------------	------------

Interest on deposits in the Manhattan Bank, to January 1, 1827,	21,063 29
---	-----------

Appropriations received from the State Treasury,	71,506 43
--	-----------

Premium on the loan of 1827,	77,580 67
------------------------------	-----------

Part of the principal of the loan of 1827,	403,500 00
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Difference of interest received of W. G. Buckner,	104 59
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Amount of tolls received,	827 10

Total amount of receipts,	\$1,236,132 46
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DISBURSEMENTS.

Payments made by the Western Reserve Bank, in the year 1826, and not previously settled and reported,	\$1,000 00
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Payment to the Lancaster Ohio Bank, for a temporary loan obtained in 1826, and previously reported,	30,000 00
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Payments made to contractors on the two Canals as per accounts and vouchers rendered:

By the Lancaster Ohio Bank,	\$457,313 67	
By the Western Reserve Bank,	304,202 17	761,515 84

Payments for contingencies:

By the Lancaster Ohio Bank,	\$19,449 52	
By the Western Reserve Bank,	20,519 50	39,969 02

Personal expenses of the Canal Commissioners, other than the Acting Commissioners,

		492 98
--	--	--------

Awards for damages,		4,448 77
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Interest on loans,		80,090 31
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Contingent expenses of the Canal fund,		319 79
--	--	--------

Personal expenses of the Commissioners of the Canal Fund, not previously charged,

\$859 15

Incidental expenses of the Canal Fund,	44 53	903 68
--	-------	--------

Balance of the fund undrawn and unexpended, November 30, 1827,

317,392 07

\$1,236,132 46

Of the above balance, undrawn and unexpended, there is deposited:

In the Manhattan Bank, New York,	\$204,014 76
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In the Lancaster Ohio Bank,	98,483 65
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In the Western Reserve Bank,	14,665 89
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In the hands of the Fund Commissioners, to wit:

Ethan A Brown,	\$99 54	
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Ebenezer Buckingham,	64 02	
----------------------	-------	--

Simon Perkins,	64 21	227 77
----------------	-------	--------

\$317,392 07

The Commissioners of the Canal Fund have exhibited to the Committee the following statement of receipts, and of their accounts for personal and incidental expenses, during the current year:

Balance in the hands of Ethan A. Brown, as per former report,

\$158 00

Draft on the Manhattan Bank for

250 00

\$408 00

From which deduct his personal expenses at Columbus, in November and December, 1826, and January, 1827; at Cleveland, in June and July; and at New York in September, October and November, 1827; as audited and allowed by the Auditor of State,

\$295 74

Payments for filling up scrip certificates of stock, postage, and

stationery, as per vouchers exhibited,	12 72	608 46
Balance in his hands November 30, 1827,		99 54
		<u>\$408 00</u>
Cash received by Ebenezer Buckingham in January and October, 1827, at the Manhattan Bank,		550 00
From which deduct amount due him, as per last report,		<u>\$63 46</u>
His personal expenses at Columbus, in December, 1826, and January, 1827; at New York, in February, March and April; at Cleaveland, in June and July; and at New York, in September, October and November, in 1827; as audited and allowed by the Auditor of State,	390 93	
Payments for postage, blank book and lettering, as per vouchers exhibited,	31 62	422 56
Balance in his hands, November 30, 1827,		64 02
		<u>\$550 00</u>
Balance in the hands of Simon Perkins as per last report,		36 88
Cash received at the Manhattan Bank, Oct. 26, 1827,		200 00
		<u>\$236 88</u>
From which deduct his personal expenses at Columbus, in December, 1826; at Cleaveland, in July; at New York, October and November; and at Columbus, in December, 1827; as audited and allowed by the Auditor of State,	172 48	
Letter postage,	19	172 67
Balance remaining in his hands,		64 21
		<u>\$236 88</u>
From the above statement, it appears, that the personal expenses and incidental charges, incurred by the Fund Commissioners, for the year ending November 30, 1827, were as follows:		
By Ethan A. Brown,	\$308 46	
By Ebenezer Buckingham,	422 56	
By Simon Perkins,	172 67	903 68
Balance in their hands unaccounted for,		<u>227 77</u>

Amount reported by said Commissioners, as in their hands,
for expenses,

\$1,131 45

In stating and presenting the above account of the receipts and disbursements of the Canal Fund, for the year ending the 30th of November, 1827, the Committee have carefully examined and compared the vouchers for each item charged, and the accounts and vouchers of the several Banks by which the funds have been received, and through which the same have passed, or by which the payments have been made, and find that no part thereof has been expended or disbursed, but in strict compliance with the laws of the state, and with every precaution which is necessary to secure accuracy, a rigid accountability, and fidelity, in the public agents employed by the state for this service.

STATEMENT of the expenditures on the Ohio and Miami Canals, for the year ending November 30, 1827.

1. *On Contracts.*

By Alfred Kelley, Acting Commissioner on the Ohio Canal,	\$313,109 27	
By M. T. Williams, Acting Commissioner on the Ohio Canal,	187,114 47	
On the Miami Canal,	258,525 79	\$758,749 53

2. *For wages and salary of the Acting Commissioners, Engineers, &c.*

By Alfred Kelley,	\$10,424 26	
By M. T. Williams,	11,586 03	22,010 29

3. *For subsistence to Engineers, and incidental expenses.*

By Alfred Kelley,	\$6,343 30	
By M. T. Williams,	6,037 00	12,380 30

4. *For contingent expenses in repairing the Ohio Canal, Lock tending, &c.*

By Alfred Kelley,		1,907 72
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5. *For awards for damages.*

By M. T. Williams, on the Miami Canal,		4,521 87
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6. *For lands purchased.*

By M. T. Williams,		296 40
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Total amount of expenditures on the Ohio and Miami Canals, for the year ending Nov. 30, 1827,		<u>\$799,866 11</u>
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Of the above amount of expenditures, there has been paid in checks drawn by Alfred Kelley, on the Western Reserve Bank, the sum of

\$316,668 17

In checks drawn on the Lancaster Ohio Bank, by Alfred Kelley,	\$15,116 38	
In checks drawn on the same Bank, by M. T. Williams,	468,081 56	483,197 94

Total amount of expenditures as above,		<u>\$799,866 11</u>
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The payments of expenditures have been made as follows:

By the Western Reserve Bank,	\$324,721 67
By the Lancaster Ohio Bank,	481,211 96

Total amount of payments as reported
by the Fund Commissioners,

\$805,933 68

From which deduct the amount of unre-
deemed checks, not presented for pay-
ment, on the 30th November, 1826,

16,006 75

\$789,926 80

Balance of unredeemed checks, not presented for payment,
on the 30th November, 1827,

9,939 23

Total amount of expenditures, as above,

\$799,866 11

The items of these expenditures have been examined by the Committee, and compared with the receipts and vouchers exhibited to support them, and found correct. They are also supported by the abstracts of the accounts of the Banks through which the payments have been made, together with the checks of the Acting Canal Commissioners (so far as those checks had been presented for payment) accompanied by the certificates of the Resident Engineers, that work to the amount of the checks had been performed, in all cases of contracts; and the amount charged for wages and salaries of the Acting Commissioners, Engineers, &c.; for subsistence and incidental expenses; for awards; and for lands purchased; are also supported by the abstracts of payments made by the Banks, by the checks drawn therefor by the Acting Commissioners, as well as by the receipts of those to whom the payments have been made, which were also exhibited and examined by the Committee.

The Committee have also examined the system adopted by the Commissioners of the Canal Fund, and the Canal Commissioners, in keeping and stating their respective accounts, and the manner in which the public funds are received, transmitted, and ultimately disbursed in payments, for the construction of the Canals, and find the same well adapted to the public service; combining simplicity with accuracy; and calculated to insure a faithful application of the same without the hazard of delinquency; and, at the same time, securing to the state every necessary facility in the prosecution of these works.

The moneys borrowed by the Commissioners of the Canal Fund, are first paid and deposited in the Manhattan Bank, New York, subject only to their order; the said Bank acting as the loan agent, and keeping the books of the Canal stock, for the state. These funds are drawn for and remitted, from time to time, as required by the progress of the work, through such of the local Banks of this state, as are made the agents for paying the same to contractors and others engaged in the construction of the Canals, but in no case, without a previous requisition of the Board of Canal Commissioners, for that purpose, and in no instance, to a greater amount than that so required.

The Board of Canal Commissioners, from time to time, as the expenditures of the work render necessary, make requisitions on the Fund Commissioners to deposit in such of the local Banks of the state as are made the paying agents, certain sums, subject only to the special and restricted orders of the Acting Commissioners, in favor of contractors, for work done under contracts. These orders or checks, to authorize the Banks in making payments

thereon, must be accompanied by the certificates of the Engineers who superintend the work, stating therein the names of the contractors and the numbers of the sections, and certifying that work has been done, under such contracts, to the value of a certain sum therein stated and estimated, at the contract price; and all subsequent certificates, for work done under the same contract, must state the whole amount of work done, and the amount in addition to that previously certified. Each order or check, must be entered in a book kept for that purpose, by the Engineer, and by him endorsed "Registered," and if the sum named in the order exceeds that contained in the certificate, (which will be the case on final settlements with contractors, when balances on former certificates have been retained, to insure a faithful compliance with the contracts) the Engineer must also certify, that the amount of the check is due on the contract therein named. The resident Engineer keeps an account and registry, of all orders or checks by him entered, and endorsed "Registered," as also of all certificates by him given for work done on contracts; and any accidental or intentional error, on the part of the Acting Commissioner, who also keeps a similar account, must be detected, and the consequences thereof prevented, before the order is properly authenticated for payment. By this arrangement, no money applicable to payments on contracts, comes into the hands of the Acting Commissioner, nor can he draw an available order, in favor of any contractor, for a greater sum than that actually due. As, therefore, these payments made to contractors, are necessarily equal to the amount of orders drawn on the fund applicable to the payment of work done on contracts, this part of the account, rendered quarterly by the Acting Commissioner, will always balance itself.

Other sums are, from time to time, deposited by the Fund Commissioners, in the local banks designated for that purpose, on the requisition of the Board of Canal Commissioners, subject only to the orders of the Acting Commissioners, for the payment of wages and subsistence of Engineers and assistants, and other incidental and contingent expenses not belonging to the head of contracts.

Duplicate receipts are taken for all payments, made by the Acting Commissioners to contractors, one of each of which is filed as a voucher for the corresponding abstract of accounts; and the Bank accounts which are rendered to the Fund Commissioners, accompanied by the checks in support of the same, are compared with the quarterly accounts of the Acting Commissioners, for the same payments. Similar receipts are also taken, in their name, for all moneys paid by them, or by the Engineers under them, for wages, subsistence, and incidental expenses, of those employed in the surveys and in the direction of the work. Accounts are rendered quarterly of all these expenses, accompanied by the receipts as vouchers, showing each item of expense, and the aggregate amount thereof under the several appropriate heads. The Acting Commissioners are charged with the sums deposited, from time to time, subject to their unrestricted orders, and credited with the amount of disbursements made as aforesaid. These quarterly abstracts of payments and expenditures, are examined by a Committee of the Canal Board, and compared with the receipts exhibited, and are then recorded at full length, in a book kept by the Clerk of the Board for that purpose. From these abstracts, an account current is made out and rendered quarter yearly, by each Acting Commissioner, exhibiting the amount of payments and disbursements, made by him during the current quarter, under the head of contracts, and the several heads of expenditure, with the total amount of disbursements, and the balance in his hands, or in deposit subject to his order; and the original accounts and

Vouchers are then deposited in the office of the Auditor of State. From these data general entries are made, and accounts stated, which exhibit the aggregate expenditures on the Canals for each quarter; the amount expended on each Canal, and on each grand division thereof; the amount paid on contracts; the several sums paid for wages and salaries of the Acting Commissioners, Engineers, &c. for subsistence, and for incidental and contingent expenses; and the total amount to the close of any given quarter. All these vouchers, receipts, and checks, are subsequently examined, and compared with the several accounts to which they belong, by separate Committees appointed by each branch of the General Assembly, and a report thereon made to each House, during the session to which the respective reports of the Canal Commissioners and the Fund Commissioners, are made.

STATEMENT of the receipts and disbursements of the Canal Fund, from the commencement of the construction of the Ohio and Miami Canals, to the 30th of November, 1827, inclusive.

RECEIPTS.

IN 1825.

Appropriation from the State Treasury,	\$40,000 00	
Nett proceeds of the five per cent. permanent loan of \$400,000 of 1825,	390,000 00	
Interest on deposits in the Manhattan Bank, to January 1, 1826,	6,608 20	\$436,608 20

IN 1826.

Temporary loan of the Lancaster Ohio Bank,	30,000 00	
Do do Bank of Marietta,	10,000 00	
Part of the six per cent. loan of \$1,000,000, of 1826,	594,840 76	
Appropriation from the revenue of the state, of 1825,	30,000 00	664,840 76

IN 1827.

Balance of the six per cent. permanent loan of 1826,	\$405,159 24	
Premium on the six per cent. permanent loan of 1826,	8,475 27	
Amount of the Canal tax of the year 1825, received from the State Treasury,	26,000 00	
Part of the six per cent. permanent loan of \$1,200,000, of 1827,	403,500 00	
Premium on the six per cent. loan of 1827,	77,580 67	
Interest on deposits in the Manhattan Bank, to January 1, 1827,	21,063 29	
Tolls received and accounted for to November 30, 1827,	827 10	
Difference of interest of W. G. Buckner,	104 59	

Amount loaned to the Canal Fund, by the State, in 1827, to wit:

● of the U. States Military District School Fund, \$2,418 00

● of the Virginia Military District School Fund, 39,196 50

Proceeds of the sales of the Salt Lands, belonging to the common school fund,

3,891 93

45,506 43

988,210 50

Total amount of the receipts of the Canal Fund to November 30, 1827,

\$2,089,665 55

DISBURSEMENTS.

IN 1825.

Interest on the 5 per cent permanent loan of \$400,000 of 1825, to January 1, 1826,

\$7,511 45

To the Western Reserve Bank for collecting a draft,

20 00

Personal expenses of the Canal Commissioners, other than the Acting Commissioners, to January 1, 1826,

423 04

Personal expenses of the Fund Commissioners,

591 30

Payments on contracts to November 30, 1825 by Alfred Kelley,

59,718 00

By Micajah T. Williams,

53,834 00

113,552 00

Payments of wages and salary of Acting Commissioners, Engineers, &c. for subsistence, and incidental expenses, by Alfred Kelley,

\$2,920 00

By Micajah T. Williams,

4,800 00

7,720 00

\$129,817 70

IN 1826.

Personal expenses of the Fund Commissioners,

\$988 84

Incidental expenses paid by the Fund Commissioners,

181 70

Personal expenses of the Canal Commissioners, other than the Acting Commissioners,

171 80

Temporary loan repaid to the Bank of Marietta,	\$10,000 00		
Interest on do.	225 00	10,225 00	
Interest on temporary loans to Lewis Casa, and to Ebenezer Buckingham and Company,		156 09	
Payments on contracts to November 30, 1826.			
By A. Kelley,	\$341,737 46		
By M. T. Williams,	348,215 01	689,952 47	
Payments made for wages and salary of Acting Commissioners, Engineers, &c. for subsistence and incidental expenses to Nov. 30, 1826:			
By A. Kelley,	\$10,544 10		
By M. T. Williams,	12,821 63	23,365 73	725,041 63
IN 1827.			
Temporary loan repaid to the Lancaster Ohio Bank,		\$30,000 00	
Interest on all loans to July 1, 1827 inclu- sive,		80,090 31	
Personal expenses of the fund Commis- sioners,		859 15	
Incidental expenses paid by the Fund Commissioners,		44 53	
Personal expenses of the Canal Commis- sioners, other than the Acting Commis- sioners,		492 98	
Contingent expenses of the Canal Fund, Awards for damages,		319 79	
		4,448 77	
Payments on contracts to November 30, 1827:			
By the Lancaster Ohio Bank,	\$457,313 67		
By the Western Reserve Bank,	304,202 17	761,515 84	
Payments for contingencies to November 30, 1827:			
By the Lancaster Ohio Bank,	\$19,449 52		
By the Western Reserve Bank,	20,519 50	39,969 02	917,740 39
Total amount of disbursements from the Canal Fund to No- vember 30, 1827,			\$1,772,599 81
Balance of the fund unexpended Nov. 30, 1827,			317,065 74
Total amount of receipts of the Canal Fund to November 30, 1827,			<u>\$2,089,665 55</u>

It will be seen, that the sum designated above, as the unexpended balance of the fund, on the 30th of November, 1827, is 326 dollars and 33 cents less than that stated by the Fund Commissioners, and the same amount less than that previously stated in this report. In this review and examination of the receipts and disbursements of the entire fund, and in the above statement of the same, it is possible the Committee may have erred in some particular, but if they have, they have not been able to detect the error. Some confusion prevails in the former reports on this subject, which induced the Committee to exhibit a statement of all the items which constitute the fund, and an account of all the disbursements thereof, that a more clear and perfect view may be had of its means and ability to sustain the future expenditures, in the construction of the Canals.

Amount of funds applicable to the construction of the Canals, for the year ending November 30, 1828:

Unexpended balance of the fund, November 30, 1827,	\$317,065 74
Balance of the six per cent loan of \$1,200,000, of 1827,	796,500 00
	\$1,113,565 74

From which deduct the amount of unredeemed checks, November 30, 1827,	\$9,939 33
Amount borrowed of the State, of the school funds,	45,506 43
Balance of the fund appropriated to pay interest on the Canal debt, on the 1st Jan. 1828,	63,656 27
	119,102 03

And there remains applicable to the construction of the Canals, for the year ending November 30, 1828,

\$394,463 71

The entire Canal debt, on the 1st of January, 1828, of which the interest is payable semi-annually, on the first of July and January, and the whole of which is irredeemable until the year 1850, and redeemable after that period, at the pleasure of the state, amounted to

\$2,600,000

And consists of the following items:

Five per cent loan of 1825,	\$400,000
Six per cent loan of 1826,	1,000,000
Six per cent loan of 1827,	1,200,000
	\$2,600,000

STATEMENT of the fund appropriated and applicable to the payment of the interest, and the ultimate redemption of the principal, of the Canal debt, on the 1st of January, 1828, inclusive.

RECEIPTS.

Appropriation from the State Treasury, in 1825,	\$40,000 00
Interest on deposits in the Manhattan Bank, to January 1, 1826,	6,608 20
Appropriation from the revenue of the state, of 1825,	30,000 00
Premium on the six per cent loan of \$1,000,000 of 1826,	8,475 27
Amount received of the Canal tax, 1826,	26,000 00
Interest on deposits in the Manhattan Bank, to January 1, 1827,	21,063 29
Premium on the six per cent loan of 1,200,000, of 1827,	77,580 67

Difference of interest of W. G. Buckner,	104 89
Tolls received and accounted for, to November 30, 1827,	827 10
Total,	<u>\$210,659 12</u>

DISBURSEMENTS.

Amount retained, to pay the premium on the five per cent loan of 1825,	10,000 00
Interest on the five per cent loan of 1825, to January 1, 1826,	7,511 45
Interest on a temporary loan of \$10,000 00 of the Bank of Marietta, 1826,	225 00
Interest on temporary loans to Lewis Cass, and E. Buckingham & Co. 1826,	156 09
Amount paid Western Reserve Bank for collecting draft,	20 00
Interest on all the loans, to July 1, 1827, inclusive,	80,090 31
Interest on all the loans to January 1, 1828, inclusive,	49,000 00
Balance of the fund applicable to the payment of interest and principal, for the year ending January 1, 1829, inclusive,	63,656 27
	<u>\$210,659 12</u>

ESTIMATE of the fund, applicable to the payment of interest on the Canal debt, and \$10,000 of the principal thereof, as required by the Act entitled "An act to provide for the internal improvement of the state of Ohio, by navigable Canals," for the year ending the 1st day of January, 1829, inclusive.

Balance of the fund on hand, Jan. 1, 1828,	\$63,656 27
Balance of the Canal tax, of 1826, in the State Treasury, not yet paid over to the fund,	48 34
Amount in the State Treasury, received from the sales of town lots in Akron, for Canal purposes,	483 45
Amount of the Canal tax, of 1827, in the State Treasury,	84,016 44
Amount of tolls collected in 1827, not accounted for on the 30th November, 1827, estimated at	950 00
Amount of tolls for the year 1828, estimated at	25,000 00
Interest on deposits in the Manhattan Bank, to January 1, 1828, estimated at	15,000 00
Interest on deposits in the Manhattan bank, to January 1, 1829, inclusive, estimated at	15,000 00
Total amount of the Interest Fund for the year 1828,	<u>\$204,154 53</u>
This fund will be charged with the following items:	
Payment of principal of the Canal debt,	\$10,000
Interest on the permanent loan of 1825	20,000
ditto ditto of 1826	60,000
ditto ditto of 1827	72,000
Interest on a new loan of 1828, estimated at	10,000
	<u>172,000 00</u>

Balance of the fund, after meeting all its liabilities, to January 1, 1829, inclusive \$32,154 53

From the report of the Auditor of State, it appears there is a surplus fund in the Treasury, not required for the

ordinary purposes of government, which, if appropriated to this fund would increase it

40,000 00

And would leave, applicable to the same objects, for the year 1829,

\$72,154 53

Estimate of the fund, applicable to the payment of Interest on the Canal debt, and \$20,000 of the principal thereof, as required by the act, entitled 'An act, to provide for the internal improvement of the state of Ohio, by navigable Canals,' for the year ending the first day of January, 1830, inclusive,

Balance of the fund, estimated to be on hand January 1, 1829,

\$72,154 53

One and one half mill tax on the aggregate amount of taxable property in the state, for the year 1828,

85,000 00

Amount of tolls for the year 1829, estimated at

75,000 00

Interest on deposits in the Manhattan Bank, during the year 1829, estimated at

12,000 00

Proceeds of donations to the fund, up to the close of the year 1829,

5,000 00

Total amount of the interest fund, for the year 1829,

\$249,154 53

This fund will be chargeable with the following items:

Payment of principal of the Canal debt,

\$20,000

Interest on the permanent loan of 1825,

20,000

ditto ditto of 1826,

60,000

ditto ditto of 1827,

72,000

ditto ditto of 1828,

50,000

222,000 00

Balance of the fund applicable to the same objects, for the year 1830,

\$27,154 53

Estimate of the fund, applicable to the payment of interest on the Canal debt, and \$30,000 of the principal thereof, as required by the act, entitled 'An act, to provide for the internal improvement of the state of Ohio, by navigable canals,' for the year ending Jan. 1, 1831, inclusive.

Balance of the fund estimated to be on hand Jan. 1, 1830,

\$27,154 53

One and one half mill tax on the aggregate amount of taxable property in the state, for the year 1829,

85,000 00

Amount of tolls for the year 1830, estimated at

150,000 00

Proceeds of donations to the fund

5,000 00

Total amount of interest fund, for the year 1830

\$267,154 53

This fund will be chargeable with the following items:

Payment of principal of the Canal debt,

\$30,000

Interest on the permanent loan of 1825

20,000

ditto ditto of 1826

60,000

ditto ditto of 1827

72,000

ditto ditto of 1828

60,000

242,000 00

Balance of the fund applicable to the same objects for 1831,

\$25,154 53

In estimating the fund available for the payment of interest on the Canal debt, for the years 1828, 1829, and 1830, and that portion of the principal required by law to be paid, during those periods, it will be seen, that the

sum of \$40,000 remaining in the State Treasury, at the present time, and not required for any of the ordinary purposes of government, is included. If that sum should be immediately invested in 5 per cent. Canal stock, or applied to the payment of interest, it will be increased, as a sinking fund, at the close of the year 1830, to the sum of \$45,600, and no additional taxes will be necessary, for Canal purposes, for the years 1828 and 1829, to meet all the requirements of the law.

The estimate of \$25,000 for tolls, on the two Canals, for the year 1828, has been predicated upon the fact that during the present year, 38 miles of the Ohio Canal, from Cleaveland to Akron, will be in operation the whole season, and 63 miles from Cleaveland to Massillon, from the first of July next; and 43 miles of the Miami Canal, from Cincinnati to Middletown, will be in operation the whole season, and 66 miles, from Cincinnati to Dayton, from the 15th of August next; equal to 129 miles of navigable Canal open for boats, from the 15th of August; 106 miles of the same, from the first of July, and 81 miles, during the whole season. For the year 1829, the tolls have been estimated at \$75,000. During that year, the Miami Canal will be open for boats the whole season, throughout its entire extent, 66 miles; and the Ohio Canal will be navigable, during the whole season, from Cleaveland to Coshocton, 134 miles, and from Cleaveland to the south end of the Licking Summit, 194 miles, from the first of June, equal to 260 miles navigable for boats, from the first of June, and 200 miles of the same during the whole season. One hundred and fifty thousand dollars are the estimated receipts for tolls, for the year 1830, on both Canals, predicated on the following data: The entire Miami Canal, 66 miles, will be open for boats, the whole season; and of the Ohio Canal, 194 miles, from Cleaveland to the south end of the Licking Summit, will be navigable during the whole season, and 264 miles of the same, from Cleaveland to Chillicothe, from the first of July of that year; equal to 330 miles of navigable Canal open for boats, from the first of July, and 264 of the same during the whole season. After the year 1830, it is confidently believed, that the receipts for tolls on the two Canals, together with the present rate of tax, of one and a half mill upon the dollar on the aggregate amount of taxable property in the state, will meet all the demands for interest on the Canal debt, and more rapidly liquidate the principal, than required by law, or by the plighted faith of the state. Should the General Assembly, therefore, appropriate the surplus funds now in the State Treasury, of \$40,000, to the sinking fund, applicable to the payment of interest and the ultimate redemption of the principal, of the Canal debt, it is not anticipated, that any increase of taxation beyond that of 1827, for Canal purposes, will be required to meet all the engagements of the state, in the construction of the Ohio and Miami Canals.

The committee in making these examinations, and in presenting the above estimates and view of the fiscal concerns of the state, in relation to the construction of the Ohio and Miami Canals, have, from mutual convenience, acted in conjunction with the committee of Ways and Means of the Senate, to whom the same matters were referred by that body, and by whom the same report will be made to that branch of the General Assembly. The importance of the subject; the amount of money expended in this service; and the magnitude of the undertaking, in which the state is engaged; seemed to require a rigid investigation of the accounts, an inquiry into the mode adopted to secure a prompt and strict accountability, and a full and fair exhibit of the present state and condition of the funds appropriated for these works. Such an examination and investigation has been had; and the committee

have the satisfaction in stating, that it has resulted in an entire confidence in the ability, fidelity, and integrity, of those entrusted with the public funds applicable to this undertaking, and those engaged in the direction, management, and construction of the public works, authorized by the act, entitled "An act to provide for the internal improvement of the state of Ohio, by navigable Canals."



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